

OKLAHOMA

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DANIEL L. EVANS, Director



MARIBETH D. SNAPP
Administrative Law Judge

July 7, 2004

Ron Comingdeer, Esq.
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Counselor:

RE: Report of the Administrative Law Judge
Cause No. PUD 200300195
United States Cellular Corporation

Enclosed is a copy of the Report of the Administrative Law Judge filed today with the Court Clerk's Office. Pursuant to OAC 165:5-13-5(a)(2), you are given ten (10) days from the date above to file appeals thereto if you so desire.

All appeals shall be accompanied with a Notice of Hearing Appeals setting the appeal for **August 10, 2004, at 9:30 a.m.** before the Commission *En Banc*.

Sincerely,

A handwritten signature in cursive script, appearing to read "Maribeth D. Snapp".

MARIBETH D. SNAPP
Administrative Law Judge

enclosure
MDS:gb

SERVICE-ASSISTANCE-COMPLIANCE
EXCELLENCE IS OUR STANDARD

Attachment 1 to Comments of FW&A in CC Docket No. 96-45, FCC 04J-1
August 6, 2004

BEFORE THE CORPORATION COMMISSION OF THE STATE OF OKLAHOMA
COURT CLERK'S OFFICE - OKC
CORPORATION COMMISSION
OF OKLAHOMA

APPLICATION OF **UNITED STATES CELLULAR**)
CORPORATION FOR DESIGNATION AS AN)
ELIGIBLE TELECOMMUNICATIONS CARRIER)
PURSUANT TO THE TELECOMMUNICATIONS)
ACT OF 1996)

CAUSE NO. PUD 200300195

HEARING: January 20, 2004
Before Maribeth D. Snapp, Administrative Law Judge

APPEARANCES: Dallas Ferguson, David A. LaFuria and Steven M. Chernoff,
Attorneys for United States Cellular Corporation
Kim Brown, Attorney for Pine Telephone Company
Cody B. Waddell, Attorney for Mid-America Telephone, Inc.
Ron Comingdeer, Attorney for Atlas Telephone Company, Beggs
Telephone Company Inc., Bixby Telephone Company, Inc.,
Canadian Valley Telephone Company, Oklahoma Telephone &
Telegraph, Inc., Santa Rosa Telephone Cooperative, Inc., Shidler
Telephone Company, South Central Telephone Association, Inc.,
Terral Telephone Company and Valliant Telephone Company.
David Dykeman, Deputy General Counsel, Public Utility Division,
Oklahoma Corporation Commission.

REPORT OF THE ADMINISTRATIVE LAW JUDGE

Procedural History

United States Cellular Corporation ("U.S. Cellular") filed its initial application on April 15, 2003, seeking designation as an Eligible Telecommunications Carrier ("ETC") within specific wire centers located in the non-rural telephone company service areas of Southwestern Bell Telephone Company ("SBC") and Valor Telecommunications of Oklahoma, LLC ("Valor"). Additionally, U.S. Cellular sought to be designated an ETC within the service areas of 28 rural telephone companies. On June 20, 2003, U.S. Cellular filed an Amendment to Application of U.S. Cellular, which amended the service area within which U.S. Cellular sought ETC designation. The Amendment requested that where U.S. Cellular's proposed ETC service area covered a rural telephone company's service area in its entirety, that U.S. Cellular be designated an ETC upon a finding that such designation would serve the public interest. Where U.S. Cellular's proposed ETC service area did not completely cover a rural telephone company's service area, U.S. Cellular requested that the Oklahoma Corporation Commission ("Commission") redefine the affected rural telephone company service areas so that each individual wire center is classified as a separate service area and grant conditional

ETC status in those areas, to take effect upon a grant of FCC concurrence with the re-designated service areas.

After a number of discovery disputes, briefs on legal issues associated with the redefinition of the service area of a rural telephone company and revisions to the Procedural Schedule, a Motion to Bifurcate Proceedings was filed September 12, 2003. The rural telephone companies that filed the motion to bifurcate sought to have a determination by the Commission regarding whether the Commission would re-designate service areas of the rural carriers as requested by U.S. Cellular, prior to a determination of whether it was in the public interest to grant U.S. Cellular ETC status within those rural areas. On October 3, 2003, the Commission issued Order No. 481156, which granted the Motion to Bifurcate.

On October 10, 2003, U.S. Cellular filed a Second Amended Application. The second amended application withdrew the request of U.S. Cellular for ETC status with respect to rural incumbent local exchange carrier ("ILEC") study areas that were only partially covered by U.S. Cellular's FCC-licensed service area. As a result of the second amended application, U.S. Cellular only sought designation as an ETC within the service areas of 15 rural telephone companies, in addition to the specific wire centers located in the non-rural telephone company service areas of SBC and Valor.

Briefs were filed January 7, 2004, by the parties, in response to a request from the ALJ for briefs on whether the Commission has authority to review U.S. Cellular's rate plans to determine whether they are comparable to those offered by other ETCs within the service area, with regard to terms of local usage and price – as part of the Commission's evaluation of whether it is in the public interest to designate U.S. Cellular as an ETC in the service areas of the Rural Telephone Companies. Additionally, the briefs addressed whether the Commission has the authority to "approve" the Lifeline and Link Up tariffs of U.S. Cellular or whether the Commission may only require "information only" filing of Lifeline and Link Up tariffs.

A hearing was held before the undersigned ALJ on January 20, 2004, at which time the parties presented a signed Settlement, which reflected a negotiated agreement between the parties on all issues except the approval required for initial tariffs, Lifeline tariffs and Link-Up tariffs. The Settlement excluded the service areas of 3 rural telephone companies from the ETC designated service areas sought by U.S. Cellular in its Second Amended Application. At the conclusion of the hearing, the ALJ took the Cause under advisement. On January 30, 2004, a Motion to Reopen and Supplement the Record was filed by U.S. Cellular. The ALJ heard arguments on the motion on February 12, 2004, and denied the Motion to Reopen and Supplement the Record.

Summary of Evidence

Frank Marino, Vice President of West Operations for U.S. Cellular Corporation, testified in support of the company's application for ETC status in Oklahoma. His

testimony described the company's business, how it is qualified to become an ETC, and how its designation in rural areas will serve the public interest.

Mr. Marino explained the company's success in bringing service to rural areas, as well as its commitment to providing high-quality service to its customers. He described the wide array of services and rate plans available to customers of U.S. Cellular. He also described how the company has demonstrated its commitment to public service by donating wireless phones to community service organizations and public safety agencies, and by providing critical communications services during natural disasters and other emergencies.

Mr. Marino explained the reasons why U.S. Cellular is seeking ETC status in Oklahoma and the benefits that its designation will bring to consumers in this state. Essentially, his testimony underscored the company's sincere belief that constructing vital infrastructure in rural areas benefits everyone. Customers who choose service from U.S. Cellular will benefit from a higher-quality and more competitive system as the network expands and improves. Users of U.S. Cellular's system will benefit from the availability of a more robust network that allows all users to make emergency and other important health and safety calls. Communications overall will improve because each user will be able to communicate with more wireless customers in more areas. The entry of U.S. Cellular as an increasingly robust competitor will provide ILECs with important incentives to improve service quality and offer innovative services and rate plans, which benefits customers everywhere. He also described how U.S. Cellular will reach out to its rural communities to offer discounts to consumers qualifying under the state Lifeline Service Program and the federal Lifeline and Link-Up programs. Mr. Marino explained the importance of telecommunications infrastructure to rural economic development, and how U.S. Cellular's entry will provide quality wireless connectivity for businesses in the areas in which it receives support. He also explained that ILECs will not be harmed by U.S. Cellular's designation as an ETC, other than to be subjected to local exchange competition where none existed before.

His testimony also described how U.S. Cellular will use the high-cost support it receives. The company commits to use high-cost support as intended and as required by law. In addition to providing service upon reasonable request from consumers, the company will continue to seek out and invest in areas where service quality needs to be added or improved. The company expects to use high-cost support to perform digital upgrades in areas where only analog is currently available, and to construct and deploy facilities necessary for compliance with federal E-911 requirements.

In sum, U.S. Cellular is very serious about using this opportunity to expand its network in rural Oklahoma so as to advance universal service and improve their ability to compete in the local exchange market. Mr. Marino indicated that when U.S. Cellular is able to do so, rural consumers will be the beneficiaries.

Kerry Newman testified he is the person with primary responsibility for the engineering and operation of U.S. Cellular's system, and has provided testimony

describing U.S. Cellular's network and the company's ability to offer the services supported by the federal Universal Service Fund. His testimony describes the company's operations in Oklahoma, as well as the basic architecture of the company's network. He explained how the type of signal coverage U.S. Cellular can provide is strong in many areas but weaker in areas in need of infrastructure investment. He also discussed the ways in which high-cost universal service support will enable U.S. Cellular to improve telecommunications service in rural areas.

His testimony also described how U.S. Cellular provides reliable, high-quality service to its customers with the help of its experienced technical support team and the presence of battery backups, emergency generators, and other essential network features. He described U.S. Cellular's high level of commitment to customer service, including the company's customer complaint procedures and the accessibility of customer service. Mr. Newman described U.S. Cellular's emergency calling capabilities and how the company complies with all applicable 911 and E-911 requirements.

Additionally, the testimony of Mr. Newman described the company's commitment to provide service to consumers upon reasonable request, and described the six-step process U.S. Cellular will follow in responding to requests for service. His testimony also addressed concerns raised in Paul Cooper's responsive testimony by explaining that U.S. Cellular's six-step plan for responding to requests for service represents a real, enforceable set of commitments that will enable the Commission to fulfill its statutory mandate from Congress to advance universal service and competition. He also explained that other states have looked favorably on consumer commitments similar to what U.S. Cellular has proposed here.

In summary, Mr. Newman confirmed that U.S. Cellular has both the capability and commitment to advance universal service by improving its facilities in Oklahoma's rural areas, which will benefit consumers who today lack the choices available in urban areas.

Don J. Wood provided testimony in this case which supports U.S. Cellular's petition for designation as an ETC in the service areas of several nonrural and rural ILECs in Oklahoma. In his pre-filed testimony, he described the public interest analysis set forth in Section 214(e)(2) of the Act and the definition of service areas contained in Section 214(e)(5). He explained that it was his understanding that U.S. Cellular had withdrawn that portion of its petition that sought designation in rural ILEC service areas that are not entirely within U.S. Cellular licensed service area. For this reason, he submitted a redacted version of his testimony in which the discussion of the service area redefinition issues had been removed.

Mr. Wood argued that the relevant inquiry to be undertaken by the Commission is specific and straight-forward: For the areas identified in U.S. Cellular's petition that are served by non-rural ILECs, there is one relevant question: Has U.S. Cellular committed to offer and advertise the nine supported services throughout the proposed service area? For the areas identified in U.S. Cellular's petition that are served by rural ILECs,

there are two relevant questions: (1) Has U.S. Cellular committed to offer and advertise the nine supported services throughout the proposed service area? and (2) Is the designation of U.S. Cellular as an ETC in the public interest? Mr. Wood argued that contrary to the suggestions of ILEC witnesses Mr. Rozell and Mr. Cooper, this proceeding is *not* an opportunity to second guess Congressional policy as set forth in the 1996 Act or the FCC's interpretation and implementation of that policy as set forth in the federal rules. Congress and the FCC have already determined that competition serves the public interest. The questions to be answered in this proceeding are not questions of broad policy, but are specific to U.S. Cellular: *Will U.S. Cellular offer services that provide benefits to consumers?*, and *Is there some fact or issue that is specific to U.S. Cellular, or to the service areas within which it seeks an ETC designation in Oklahoma, that would outweigh those benefits?* Based on the facts associated with this petition, Mr. Wood argued the Commission should be able to answer "yes" and "no," respectively, to these questions.

Mr. Wood argued that the designation of U.S. Cellular as an ETC in the area served by rural ILECs is in the public interest because it will bring important competitive benefits to Oklahoma consumers. These competitive benefits have a short-term and a long-term component: End-users will benefit in the short term from a choice of suppliers that represent different technologies, and they can also select from a much broader array of service and pricing plans. Over the longer term, consumers will benefit as competitive market forces act to make all providers, including the rural ILECs, more efficient and responsive to customer needs. While competitive entry is important in urban and suburban areas, Mr. Wood indicated it was his experience the existence of competitive alternatives in rural areas is even more important for at least two reasons: (1) The existence of competitive options for telecommunications services, particularly the availability of wireless service, is important for rural economic development; and (2) The availability of affordable and high-quality wireless service is extremely important in rural areas for health and safety reasons. He stated that while the ILEC witnesses assert that rural areas are "different," the relevant question is not "*Is the area served by the rural ILECs different from the area served by non-rural ILECs?*" but rather "*Is the area served by the rural ILECs at issue in this proceeding demonstrably different from the service area of other rural ILECs, and different in a way that was unanticipated by the FCC in the Fourteenth Report and Order?*" He indicated that there is nothing in the record to suggest that this is the case.

Mr. Wood testified the ILEC witnesses made several arguments in support of their position that the people who live and work in rural areas in Oklahoma should not have access to the same competitive alternatives as those people who live or work in urban or suburban areas.

First, they made much of the fact that U.S. Cellular is already providing some services in at least part of the geographic areas at issue in this proceeding. While it is true that some wireless companies are providing some services in limited areas, Mr. Wood explained this does not mean that the market is competitive with respect to the services U.S. Cellular is committing to offer. No other company has committed to

serve throughout these areas, and no carrier is attempting to provide consumers with a wireless service at a level of quality that can serve as a substitute for the current wireline service. An argument that a carrier should not be eligible for universal service funding because it is already serving part of a given area ignores the fact that rural ILECs did not begin by providing service with a network whose reach extended throughout their current service areas; rather, they began by constructing facilities where it was most feasible and then expanding those facilities over time – *while receiving implicit or explicit universal service support*. Similarly, U.S. Cellular can and does provide services throughout part of the area for which it seeks ETC designation. ETC designation will enable U.S. Cellular to take the next step and offer a competitive alternative for the supported services throughout these areas.

Second, Mr. Wood testified that the ILEC witnesses made a series of entirely baseless and purely speculative assumptions that U.S. Cellular will somehow use its high-cost support improperly. He explained that such a concern ignores the fact that USAC has the authority to conduct audits to ensure support is spent properly, that the Commission may evaluate whether funds are being spent lawfully in its annual recertification of U.S. Cellular as an ETC, and that the FCC, as the licensing authority for wireless carriers such as U.S. Cellular, has the power to investigate wireless carriers and take punitive action if necessary.

Third, he testified that the ILEC witnesses argued that U.S. Cellular will receive a “windfall” in high-cost support because it is a lower cost provider of the supported services than the ILECs. If U.S. Cellular’s per-subscriber costs are indeed lower, Mr. Wood argued the worst outcome that can be realized is that the carrier that all parties agree is a more efficient provider will be encouraged to build out its network on an accelerated basis. In contrast, denying support to carriers like U.S. Cellular will result in a larger than necessary USF over the long run, as carriers with inefficient networks continue to be subsidized and protected from competitive entry.

Fourth, Mr. Wood testified that the ILEC witnesses’ concerns with the potential impact of an additional ETC on the size of the federal USF are (1) not related to any of the specific characteristics of U.S. Cellular’s petition or to the rural ILEC service areas that are identified in U.S. Cellular’s petition, and (2) to the extent they have merit, these concerns are currently being addressed by the FCC and Joint Board in the proper forum. In reality, the best means of controlling the size of the federal fund over the long term is to grant requests by competing carriers for an ETC designation, so that the most efficient provider of the supported services can enter on an equal footing with the ILECs.

Finally, he testified that U.S. Cellular will use the high-cost support it receives to provide service upon reasonable request from consumers and will continue to seek out and invest in areas where service quality needs to be added or improved. He indicated the company expects to use high-cost support to perform digital upgrades in areas where only analog is currently available, and to construct and deploy facilities necessary for compliance with federal E-911 requirements. In summary, Mr. Wood indicated the

company is very serious about using this opportunity to expand its network in rural Oklahoma so as to advance universal service and improve its ability to compete in the local exchange market. It was his testimony that when the company is able to do so, rural customers will be the beneficiaries.

Professor Jim Chen testified on behalf of U.S. Cellular. He indicated that the principal purpose of his testimony was to describe the applicable criteria and procedures that the Commission should follow in determining whether to designate U.S. Cellular as an ETC. In particular, his testimony addressed the proper interpretation of the "public interest" standard that the Commission must apply under 47 U.S.C. § 214(e)(2). Professor Chen stated that the witnesses for the rural telephone companies that oppose this application ("Opposition Witnesses") fundamentally misconstrue the inquiry that the Commission must conduct. By failing to consult the 1996 Act, its underlying intent, and implementing regulations and orders by the FCC, the Opposition Witnesses warped the concept of the public interest beyond recognition. They gave no weight to considerations of portability, competitive neutrality, technological innovation, and consumer choice. Even worse, the Opposition Witnesses repeatedly invited the Commission to consider numerous purported public interest factors - in particular, allegations of dire financial consequences for incumbent rural telephone companies, of potential abuse of federal universal service support by U.S. Cellular, and of undue financial pressure on the federal USF; issues that the Commission, as a matter of law, is not permitted to consider. The structure of federal universal service support makes it impossible for an incumbent rural carrier to become insolvent through competitive entry, while any consideration by the Commission of financial pressure on the USF is unlawful.

Professor Chen explained that his testimony discusses the pro-competitive, deregulatory purposes of the 1996 Act, and explains that the Act's universal service provisions are no exception to this pro-competitive legislative package. His testimony also demonstrates how the Opposition Witnesses have failed to appreciate how dramatically the 1996 Act has changed traditional approaches to universal service. Specifically, because comprehensive regulatory reform and the opening of local telephone markets threatened to undermine the traditional system of implicit subsidies, the 1996 Act integrated a new universal service mechanism into its market-opening provisions. Congress could not have been clearer in linking the preservation of universal service with its desire to promote competition.

Professor Chen stated that the Opposition Witnesses advance an inappropriate set of considerations under the guise of a "public interest" analysis, such as the competitive disadvantage that would befall ILECs in rural areas if the Commission grants U.S. Cellular's ETC designation petition, or the financial pressure purportedly being exerted on the USF by successful ETC petitions. He indicated that one ILEC witness even suggests, apparently without conscious irony, that U.S. Cellular should be denied ETC status because it can deliver telecommunications services more efficiently than the rural ILECs that serve the markets at issue. Professor Chen testified that these and other considerations advanced by the Opposition Witnesses have no place in the Section 214(e)(2) "public interest" analysis.

His testimony explained that the open-ended phrase "public interest" takes its "meaning from the purposes of the regulatory legislation" that defines the relevant agency's responsibilities. Far from being a standardless reference to the public welfare, the public interest analysis must be confined to the purpose of the 1996 Act and the context of the provisions in question. That this Commission is a creature of state law confers no immunity from its obligation to determine the public interest in accord with federal law. The appropriate scope of the public interest therefore depends on careful consideration of the minimum requirements and outer bounds of sections 214 and 254 of the Communications Act.

Professor Chen's testimony explained that a failure to heed the interpretive yardsticks established by the 1996 Act and its interpretation and implementation by the FCC may lead to "false negatives" and "false positives" in the Commission's analysis of the public interest. A false negative would impair the Commission's ability to recognize how designating U.S. Cellular as an ETC would advance the public interest. The distinct problem of false positives, which is no less treacherous or probable than the prospect of false negatives, arises if an irrelevant or improper factor somehow influences the Commission's public interest analysis.

Professor Chen explained that his testimony discusses some of the more misguided and inaccurate statements of the Opposition Witnesses, who all but equated the public interest with incumbent protection. In response to the Opposition Witnesses' claim that subsidizing competitors amounts to "artificial competition," Professor Chen emphasized that rural telephone companies are themselves the products of public policies consciously adopted and deliberately intended to subsidize telecommunications service in remote areas where the cost of delivering service is extremely high. When an incumbent carrier depends so heavily upon public largesse, a public decision to subsidize a competitor is no more "artificial" than the incumbent's dominance of that market is "natural."

Professor Chen indicated his testimony also highlights the protectionist nature of the Opposition Witnesses' arguments, as illustrated by Mr. Rozell's criticism of the petitioner's equipment. Challenging the adequacy of customer premises equipment offered by rivals is one of the oldest stratagems known to incumbent carriers. It was his opinion that these purported public interest arguments systematically discriminate against carriers according to their competitive status and the technology that they deploy without any factual basis. Moreover, the Opposition Witnesses took positions that violate competitive and technological neutrality when they asked the Commission to evaluate U.S. Cellular's petition based on the technological limitations of incumbent ILECs' wireline platforms. Professor Chen argued that the Commission can best honor the requirement of competitive neutrality by ensuring that its federal ETC designation decisions reflect the will of Congress and the FCC to advance universal service and promote competition in rural areas throughout the country.

He also refuted the Opposition Witnesses' insistence on treating the high costs incurred by the ILECs as a significant factor in the public interest weighing against ETC designation. He explained how the entire purpose of promoting competitive entry is to bring all market participants' costs down, and, with them, prices consumers must pay. He also responded to Mr. Cooper's concern that U.S. Cellular could divert Oklahoma support funds toward unsupported activities by reminding the Commission that the Commission has the authority to examine U.S. Cellular's use of support as part of the annual recertification process.

Robert Rozell testified on behalf of Atlas Telephone Company, Beggs Telephone Company, Bixby Telephone Company, Canadian Valley Telephone Company, Oklahoma Telephone & Telegraph, Inc., Santa Rosa Telephone Cooperative, Inc., Shidler Telephone Company, South Central Telephone Association, Inc., Terral Telephone Company and Valliant Telephone Company (collectively referred to as the RTCs) on the designation of U.S. Cellular as an ETC for the purpose of receiving federal universal service funds.

Mr. Rozell testified that first and foremost, the RTC's position is that U.S. Cellular and any carrier requesting ETC status must meet all of the requirements set forth in the law, including meeting the public interest test if the carrier requests ETC designation in a rural telephone company's service area. Based upon the Application and Testimony filed by U.S. Cellular in this case, the RTCs do not believe that U.S. Cellular has met its burden of proof to be designated as an ETC. Further, the RTCs do not believe the grant of additional ETC designations in rural study areas is in the public interest whether it is for the federal funds or for the various state funds as long as the newly designated ETC receives funding at the Incumbent's cost level, as the current rules provide. Since U.S. Cellular, as a common carrier, is only required to provide service to customers where it chooses to serve within its authorized territory and Kerry Newman testified that U.S. Cellular will only service customers where the request for service is reasonable, Mr. Rozell expressed concern that U.S. Cellular will likely only overbuild the low cost areas and serve customers that can be served at a cost below the USF funds they would receive. Since building out a wireless network is generally less than the costs of a comparable wireline network, he indicated it is difficult to understand how it is in the public interest to allow a non-regulated carrier to receive revenues from ratepayers, that are above their cost to provide service.

The Universal Service Funds have been designed to make sure that all Americans have the opportunity to access affordable high quality telecommunications services at reasonable prices and to ensure the regulated companies who have carrier of last resort obligations have the ability to recover their investments in the network to provide those services. Mr. Rozell argued that the use of quasi-public funds to encourage a perversely imbalanced "competition" in areas that cannot support a single provider, from the available customer revenue, cannot be in the public interest. This is especially true when the new competitor is a wireless provider who will be receiving USF funds well in excess of its costs to provide the service, and will likely cause a further imbalance in the extremely competitive wireless market in the area. Further, to

fund a competitor in areas of ILECs that have a history of providing high quality services at reasonable prices, provides no additional consumer or public benefit. U.S. Cellular has not put on any evidence that the customers within the areas they are seeking designation as an ETC are not currently receiving the benefits of competition and that the goals and objectives of universal service are not currently being met.

Section 254 of the Act sets forth the policies for the preservation and advancement of universal service. It requires that quality services should be available at just, reasonable, and affordable rates; that customers should have access to advanced telecommunications and information services; and, that customers, including low-income customers and those in rural, insular, and high cost areas should have access to telecommunications and information services, including interexchange services and advanced telecommunications and information services, at rates that are reasonably comparable to those services provided in urban areas. The goal is to ensure the high cost customer is served well at a reasonable cost to the public, not that one competitor receives funds in excess of its costs to provide services that are already available to customers. The RTCs have a history of providing high quality basic services and advanced services throughout the areas they serve, as well as being good corporate citizens to their communities. U.S. Cellular has not demonstrated that they can or will offer anything more than what is currently available through existing wireline and wireless carriers, therefore there can be no overall public benefit to allow them to receive funds based on the RTCs' cost to provide the supported services. Mr. Rozell stated that the only real argument U.S. Cellular offers is that competition is self justifying and that they bring mobile services to the customer, which is not a service identified as supported by universal service funds. He pointed out that virtually all of the specific benefits U.S. Cellular identified are currently offered by one or more competitors in the wireless marketplace today, without support. He further stated that despite U.S. Cellular's desire to have the Commission believe otherwise, there is a highly competitive market among telecommunications service providers in the State of Oklahoma including the RTCs' service territories and the cellular nationwide one rate plans continue to cause declines in access minutes and even access lines for the RTCs. Once again, all of the benefits and supported services are being provided today without windfall "support" revenues to one or more competitors. Mr. Rozell asked that the Commission remember that the RTCs are only recovering a portion of their regulated cost through Universal Service funds and the company still must bear significant portions of any investment decision and regulators have a say in any pricing decision.

Mr. Rozell indicated the RTCs also have concerns that funding in excess of costs will lead to irrational pricing and marketing decisions on the part of the carriers, which are borne by the public at large. In some cases, it leads directly to predatory pricing by the zero cost carrier. In other cases, the excess charges are allowed to flow to the stockholders. Whichever result happens, it endangers the overall support system that allows the most remote of users to obtain telephone services. Those customers are usually left out in a competitive price conscious decision process, as admitted by U.S. Cellular in their testimony. It would be irrational to do otherwise. One company cannot

afford to spend \$50,000 to serve ten customers in a remote area for a support of \$250 per month when they can spend the same \$50,000 and serve 200 customers elsewhere in the area. Universal Service considerations are thrown out the window, just as they were when the markets were first established and AT&T chose not to serve customers located in high cost areas.

Mr. Rozell testified that the RTCs believe the best resolution would be to deny the request until the Joint Board and the FCC complete their review of the current rules and approve new rules for ETCs to recover only their cost to provide the supported services. That would prevent customer dislocation from non-economic plans offered under these rules, such as has occurred in Oklahoma with the withdrawal of SBC's unlimited IntraLata flat rated plans. Barring that, there is a very competitive wireless marketplace in Oklahoma today that would become decidedly uncompetitive should only one wireless carrier receive ETC designation to the exclusion of other wireless carriers making the same claims U.S. Cellular has made. The benefits of wireless competition are as great or greater than any benefits U.S. Cellular has identified in their application. To maintain wireless competitive neutrality, no wireless carrier should receive the designation or all carriers should become ETCs upon their request and willingness to agree to the same terms and conditions.

Mr. Paul L. Cooper testified on behalf of Mid-America Telephone, Inc., and Pine Telephone Company. He stated that U.S. Cellular's Application for ETC designation should be denied because it does not meet the requirement to provide service throughout the rural ILECs service areas as required by Section 214(e)(1) of the Act. He stated that U.S. Cellular has not demonstrated that it will provide reliable service throughout the entire service area of the Mid-America and Pine Telephone Companies.

Mr. Cooper testified as set forth in his Exhibit 2 that U.S. Cellular only provides service to a portion of these service areas for which U.S. Cellular holds a license, and has avoided serving the higher cost portions of these areas. He stated that U.S. Cellular has admitted in its testimony that if granted ETC status, it will not provide service to customers in high cost areas if in U.S. Cellular's view, provision of service is not cost effective.

U.S. Cellular's 2002 Annual Report shows that it has no need for federal funding in Oklahoma to support its existing costs and it has no need for funding to make the facility improvements in Oklahoma it discusses in its testimony. It was Mr. Cooper's opinion that U.S. Cellular's lower costs are not a sign of greater efficiency, but quite likely a demonstration (as shown on his Exhibit 2) that U.S. Cellular has chosen to serve only certain (likely lower cost) portions of rural ILEC service areas.

Mr. Cooper argued that any Universal Service Funding U.S. Cellular receives is not needed to support its costs and thus will not be used only for the purposes of provisioning, upgrading and maintaining the costs of its Universal Services in Oklahoma, as required by the Act, Section 254(e). Federal support, if given to U.S. Cellular, will simply allow U.S. Cellular to use internally generated cash, previously

earmarked for network upgrades in Oklahoma, for projects in other states and/or to benefit stockholders by using this cash to increase shareholder equity through acquisitions, buying back stock and/or reducing debt. He stated that none of these uses are in accord with the purpose of such funding (i.e. to be used to maintain quality service with reasonable rates in high cost rural areas in Oklahoma).

Mr. Cooper testified that U.S. Cellular's ETC application should also be denied because it is not in the public interest as required by Section 214(e)(2) of the Act. U.S. Cellular confuses the purported benefits of competition with the benefits of its proposed ETC designation throughout its testimony. The telephone companies represented by Mr. Cooper do not oppose fair wireless competitive entry in their service areas. However, competitive entry and the purported benefits of that entry (lower rates, higher quality service, customer choice, the introduction of innovative and advanced services and new technologies, etc.) are not at issue in this Cause. U.S. Cellular and other wireless carriers are already competing in the rural ILECs' service areas and are, along with the rural ILECs, already bringing all of the public interest benefits U.S. Cellular touts in its testimony to those areas. Additionally, U.S. Cellular and other wireless carriers have already implemented their competitive services in the rural ILEC territories without the receipt of or need for universal service funding.

Mr. Cooper explained that the issue in this Cause is not competition, nor the benefits of competition. Instead, the issue is what additional public interest benefits (beyond those that are already occurring as a result of U.S. Cellular's competitive presence in rural ILEC areas) will occur if U.S. Cellular is granted ETC status and receives universal service funding.

He testified that U.S. Cellular offers no proof of public interest benefits beyond those that have already occurred as a result of its competitive presence. U.S. Cellular has not shown that rates will be lowered, or that there will be greater choice, or additional improvements in efficiency or service quality. Nor have they shown that there will be new technologies, advanced or innovative services or that there will be additional economic development or health and safety benefits.

Mr. Cooper indicated his concern by stating U.S. Cellular assures the Commission that it will provide the nine supported services, but at what price? U.S. Cellular has not made it clear, in either its testimony or Application, which of its service offerings is its universal service offering. Does it expect to receive support for its \$50, \$75, \$100, \$140, or \$200 services? With its \$25, \$35 and \$40 offerings, will it charge 40 cents per minute for additional minutes? Will it charge 69 cents per minute for roaming and 30 cents per minute for expanded calling? These rates do not seem to be in the public interest for a supported universal service offering and do not seem to comply with the just reasonable and affordable requirement of the Act.

He argued that U.S. Cellular's service may not even meet the intent of the low income toll blocking requirement because U.S. Cellular will apparently charge up to 40

cents per minute for each non-toll originating and terminating minute exceeding the block of time purchased by the low income customer.

Mr. Cooper stated that for all of these reasons, designating U.S. Cellular as an ETC will not advance universal service as contemplated by the Act and is not in the public interest; but will simply, advance the interests of U.S. Cellular's stockholders. He indicated that denial of ETC status in the service areas of Mid-America and Pine telephone companies for the reasons provided in his testimony is consistent with the Act and FCC rules and assures competitive and technological neutrality. Additionally, denial of U.S. Cellular's ETC request will insure that U.S. Cellular will not receive support that is unneeded for the areas where it chooses to provide service and where it will not undertake universal service obligations (quality services at reasonable and affordable rates for all consumers in the service area) as do the other ETCs in Oklahoma.

Finally, Mr. Cooper argued that if the OCC does grant ETC status to U.S. Cellular, the Commission should require that U.S. Cellular meet all of the safeguards and conditions set forth in Paragraph 22 of the OCC's Final Order in Cause No. PUD 980000470, dated April 11, 2001, in order to assure competitive and technological neutrality. The OCC should also require additional quality of service and infrastructure reporting to insure that U.S. Cellular uses the funding it receives in rural high cost areas in Oklahoma, as it promised in its Application and testimony.

Barbara Mallett testified on behalf of the Commission Public Utility Division Staff ("Staff"). She stated that U.S. Cellular currently asks to be designated as an ETC throughout the exchanges of 15 rural ILECs and portions of SBC's, a non-rural ILEC, and Valor's service territories. U.S. Cellular makes these requests for purposes of receiving funding from the federal Universal Service Fund ("USF") only.

The requirements for designation as an ETC are identical at both the state and federal levels. However, in addition to designation as an ETC and prior to receiving funding from the OUSF, a telecommunications services provider must meet the additional requirements of OAC 165:59-3-14 to be designated as eligible to receive funding from the OUSF. Those requirements include the following: (1) certification as a CLEC, (2) provision of a primary directory listing and access to telecommunications relay services for the hearing impaired, (3) compliance with all Commission rules for which a waiver has not been granted, (4) acceptance of carrier of last resort obligation, and (5) provision of Lifeline/Link Up service or Special Universal Services. Further, the ETC may not begin to receive support until has its own facilities in place in Oklahoma, and may only receive funding for the portion of the facilities that it owns, maintains, and uses for regulated services.

Ms. Mallett stated it was Staff's opinion that U.S. Cellular meets all requirements for designation as an ETC for purposes of funding from the federal USF in the territories of those rural ILECs in which it has requested designation and can, and is willing to, provide the required universal services throughout the entire study area, and in those

portions of non-rural ILEC service areas in which it has requested designation as an ETC and in which it can and is willing to provide service throughout an exchange.

She stated that in Staff's opinion, the following are the outstanding issues remaining in this Cause: (1) Where is U.S. Cellular licensed and able to provide its services in the requested areas? (2) Is U.S. Cellular willing to provide the required services throughout the entire territory in which it may be designated an ETC?

Ms. Mallet explained that U.S. Cellular currently has no service area in Oklahoma established by any other authority than the FCC. It is Staff's opinion that the FCC has established a precedent for designation of additional ETCs in the territories of rural ILECs. Further, Staff believes that designation of U.S. Cellular as an ETC in the study areas of those ILECs in which it has requested designation and is licensed and willing to provide service throughout the service area or, in the case of a non-rural ILEC, the exchange, is consistent with both the Commission's past decisions and the FCC's handling of such critical issues as those being addressed by the Joint Board in response to the FCC's request for recommendations.

Ms. Mallett, in her supplemental testimony, recommended that, if the Commission sees fit to designate U.S. Cellular as an ETC, that the Commission make the designation on an interim basis for 5 years and also impose a 5 year build-out plan on U.S. Cellular. At the end of the 5 year period, Ms. Mallet recommended U.S. Cellular be able to provide service to any customer making a bona fide request, within a reasonable time frame throughout the service area in which it is designated an ETC. It was her recommendation that the build-out plan contain sufficient budget and construction information to indicate the facilities that are to be placed in specific locations to meet current and expected customer demand, and include at least annual reporting to the Commission of U.S. Cellular's progress under the plan.

General Background

U.S. Cellular seeks designation as ETC in order to obtain federal universal support mechanisms for providing phone service within certain wire centers of "SBC and Valor and the service areas of 12 rural telephone companies¹ (referred to hereafter as the "12 Rural Telephone Companies"). Section 254(e) of the Telecommunications Act of 1996 ("the Act") provides that "only an ETC designated under section 214(e) shall be eligible to receive specific Federal universal service support."

The requirements for designation of an ETC are identified in section 214 (e)(1) of the Act.²

¹ The Settlement filed January 20, 2004 was signed by the following rural telephone companies: Atlas Telephone Company, Beggs Telephone Company, Inc. Bixby Telephone Company, Inc., Canadian Valley Telephone Company, Mid-America Telephone Inc., Oklahoma Telephone & Telegraph, Inc., Pine Telephone Company, Santa Rosa Telephone Cooperative, Inc., Shidler Telephone Company, South Central Telephone Association, Inc., Terral Telephone company and Valliant Telephone Company.

² The analysis of section 47 U.S.C. § 214 (e)(1) is taken from the Joint Board Recommended Decision issued February 27, 2004 in CC Docket No. 96-45 at paragraph 19.

First, a common carrier designated as an ETC must offer the services supported by the federal universal service mechanisms throughout the designated service area.³ The ETC must offer such services either using its own facilities or a combination of its own facilities and resale of another carrier's services.⁴ The services that are supported by the federal universal service support mechanisms are defined as: (1) voice grade access to the public switched network;⁵ (2) local usage;⁶ (3) Dual Tone Multi-frequency (DTMF) signaling or its functional equivalent;⁷ (4) single-party service or its functional equivalent;⁸ (5) access to emergency services including 911 and enhanced 911;⁹ (6) access to operator services;¹⁰ (7) access to interexchange services;¹¹ (8) access to directory assistance;¹² and (9) toll limitation for qualifying low-income customers.¹³ Second, throughout the service area for which designation is

³ 47 U.S.C. § 214 (e)(1)(A).

⁴ *Id.* An entity that offers the supported services exclusively through resale shall not be designated as an ETC. See 47 C.F.R. § 54.201(i).

⁵ "Voice grade access" is defined as a "functionality that enables a user of telecommunications services to transmit voice communications, including signaling the network that the caller wishes to place a call, and to receive voice communications, including receiving a signal indicating there is an incoming call."

⁶ "local usage" means an "amount of minutes of use of exchange service, prescribed by the Commission, provided free of charge to end users." 47 C.F.R. § 54.101(a)(2).

⁷ "Dual tone multi-frequency" (DTMF) is defined as a "method of signaling that facilitates the transportation of signaling through the network, shortening call set-up time." 47 C.F.R. 54.101(a)(3).

⁸ "Single-party service" is defined as "telecommunications service that permits users to have exclusive use of a wireline subscriber loop or access line for each call placed, or, in the case of wireless telecommunications carriers, which use spectrum shared among users to provide service, a dedicated message path for the length of a user's particular transmission." 47 C.F.R. § 54.101 (a)(4).

⁹ "Access to emergency services" includes access to services, such as 911 and enhanced 911, provided by local governments or other public safety organizations. "911" is defined as a "service that permits a telecommunications user, by dialing the three-digit code "911," to call emergency services through a Public Service Access Point (PSAP) operated by the local government." "Enhanced 911" is defined as "911 service that includes the ability to provide automatic numbering information (ANI), which enables the PSAP to call back if the call is disconnected and automatic location information (ALI), which permits emergency service providers to identify the geographic location of the calling party." "Access to emergency services" includes access to 911 and enhanced 911 services to the extent the local government in an eligible carrier's service area has implemented 911 or enhanced 911 systems. 47 C.F.R. § 54.101(a)(5).

¹⁰ "Access to operator services" is defined as "access to any automatic or live assistance to a consumer to arrange for billing or completion, or both, of a telephone call." 47 C.F.R. § 54.101(a)(6).

¹¹ "Access to interexchange service" is defined as the "use of the loop, as well as that portion of the switch that is paid for by the end user, or the functional equivalent of these network elements in the case of a wireless carrier, necessary to access an interexchange carrier's network." 47 C.F.R. 54.101(a)(7).

¹² "Access to directory assistance" is defined as "access to a service that includes, but is not limited to, making available to customers, upon request, information contained in directory listings." 47 C.F.R. 54.101(a)(8).

¹³ "Toll limitation" means either toll blocking or toll control for ETCs that are incapable of providing both services. For ETCs that are capable of providing both services, "toll limitation" means both toll blocking and toll control. 47 C.F.R. 54.101(a)(9) and 54.000(d). "Toll blocking" is a service provided by carriers that allows consumers to elect not to allow the completion of outgoing toll calls from their telecommunications channel. 47 C.F.R. § 54.400(b). "Toll control" is a service provided by carriers that

received, the ETC must advertise the supported services and the charges therefore using media of general distribution.¹⁴ Pursuant to section 214(e)(1)(B), an ETC is required to advertise the availability and prices charged for the services that are supported by federal universal service support.¹⁵ An ETC must also advertise the availability of Lifeline and Link Up services in a manner reasonably designed to reach those likely to qualify for those services.¹⁶

Pursuant to section 214(e)(1), a common carrier designated as an ETC must offer and advertise the services supported by the federal universal service mechanisms throughout the designated service area, either using its own facilities or a combination of its own facilities and resale of another carrier's services (including the services offered by another ETC).¹⁷

Section 214(e)(2) of the Act gives state commissions the primary responsibility for evaluating requests for an ETC designation. Under section 214(e)(2), "[u]pon request and consistent with the public interest, convenience, and necessity, the State commission **may**, in the case of an area served by a rural telephone company, and **shall**, in the case of all other areas, designate more than one common carrier as an eligible telecommunications carrier" for a designated service area, so long as the requesting carrier meets the requirements of section 214(e)(1). Section 214(e)(2) further states: "**[b]efore** designating an additional eligible telecommunications carrier for an area served by a rural telephone company, the State commission **shall find that the designation is in the public interest.**" (*emphasis added*)

Findings of Fact and Conclusions of Law

U.S. Cellular filed a Second Amended Application seeking designation as an Eligible Telecommunications Carrier ("Second Amended Application") on October 10, 2003. The Second Amended Application affirms the original application, which states that U.S. Cellular is seeking ETC status for the purpose of receiving federal Universal Service Fund support. No mention is made in the applications or the Settlement

allows consumers to specify a certain amount of toll usage that may be incurred on their telecommunications channel per month or per billing cycle. 47 C.F.R. § 54.400(c).

¹⁴ 47 U.S.C. § 214(e)(1)(B).

¹⁵ *Id.*

¹⁶ 47 C.F.R. §§ 54.405(b) and 54.411(d). Lifeline is a program that provides discounts to consumers on their monthly telephone bills. See 47 C.F.R. §§ 54.401-54.409. Link Up helps consumers with telephone installation costs. See 47 C.F.R. §§ 54.411-54.415. In its *Twelfth Report and Order*, the Commission created a fourth tier (\$25.00 per month) of federal Lifeline support and established additional Link-Up support (\$70.00 per consumer) which is available to ETCs serving qualifying low-income individuals living on tribal lands:.....

¹⁷ 47 U.S.C. § 214(e)(1). The "service area" is the geographic area established by the state commission for the purposes of determining universal service support obligations and support mechanisms. 47 U.S.C. § 214(e)(5). In the case of an area served by a rural carrier, "service area" means such company's "study area" unless and until the Commission and the States, after taking into account the recommendations of a Federal-State Joint Board instituted under section 410(c), establish a different definition of service area for such company.

regarding funding from the Oklahoma Universal Service Fund ("OUSF") and the ALJ finds that U.S. Cellular must meet the requirements of OAC 165:59 prior to receiving support from the OUSF.

With regard to designation as an ETC within the non-rural service areas of SBC and Valor, the ALJ finds that no party opposed the designation of U.S. Cellular as an ETC in the service areas of SBC and Valor. Because section 214 (e)(2) requires that the Commission designate more than one ETC within the service area of a non-rural telephone company upon request, the ALJ finds that the Commission should designate U.S. Cellular as an ETC within the requested service areas of SBC and Valor.

In determining whether to grant ETC status to a telecommunications carrier such as U.S. Cellular within the service area of one or more rural telephone companies, the Commission must first determine whether the carrier seeking ETC status meets the requirements for ETC designation. Secondly, the Commission must determine whether it is in the public interest to grant ETC status to a carrier other than the incumbent Rural Telephone Companies.

The Parties to this Cause have signed a Settlement Agreement ("Settlement"), which requests the Commission approve their negotiated agreement in its entirety and without modification. The Staff signed the Settlement, but continues to assert (through the paragraph above its signature on the Settlement) that U.S. Cellular should be required to file and seek Commission approval of its Lifeline and Link Up services tariff, which includes terms, conditions, service descriptions, discount descriptions, rates and customer discounts that U.S. Cellular will make available and apply to customers who are eligible for Lifeline and Link Up.

The ALJ commends the parties for reaching a Settlement in this Cause. When the Cause was first filed, there was a request for designation as an ETC within the service territories of 28 incumbent rural local exchange carriers. The FCC-authorized service territory of U.S. Cellular did not cover the entire study area of each of the 28 rural local exchange carriers and after much discovery and several procedural motions before the ALJ, the parties were able to reach a compromise that would allow U.S. Cellular to be designated an ETC in the service areas of the 12 Rural Telephone Companies that signed the Settlement.

A determination that it is in the public interest to designate an additional ETC within the service area of each of the 12 Rural Telephone Companies requires an analysis of many factors. The testimony filed by several of the parties prior to reaching a Settlement, indicates some parties initially believed that it was not in the public interest to designate an additional ETC within the service areas of the 12 Rural Telephone Companies.

In 2001, the Commission designated GCC Wireless ("GCC") as an ETC subject to its compliance with certain specified conditions. GCC appealed the Commission's designation, arguing that the state lacked jurisdiction to regulate the entry of a provider

of Commercial Mobile Radio Service ("CMRS") into Oklahoma or the rates charged for any CMRS product. The Court of Civil Appeals for the State of Oklahoma, Division IV, upheld the Commission in an unpublished decision filed November 12, 2002. The Court of Civil Appeals stated: "We hold that the conditions under review do not 'regulate the entry of or the rates charged' by GCC for its general commercial mobile radio services, but instead, are permissible 'terms and conditions' for GCC to undertake the provision of universal, subsidized basic local telephone services."¹⁸

The Settlement in this Cause indicates that U.S. Cellular should be designated an ETC because it meets or has agreed to meet certain specific conditions as a prerequisite to being designated an ETC. Many of the requirements are the same conditions placed upon GCC. In 2001, when the Commission approved ETC designation for GCC, the Commission stated that designation of GCC as an ETC would provide greater customer choice and the benefits of competition to consumers within these rural study areas by adding an additional universal service provider in such areas. Such choice and competition benefits were hoped to bring new telecommunications services and a more rapid deployment of new technologies in rural areas of the State and it was believed the choice and competition should lead to better service for Oklahoma's rural customers.¹⁹

Since 2001, there have been a number of clarifications in orders issued by the FCC regarding the Universal Service Fund and the designation of a CMRS provider as an ETC in both rural and non-rural areas. In addition, the Commission adopted new rules, which became effective July 1, 2004, regarding the requirements to be met by a CMRS provider that is granted ETC status.²⁰ In light of the new rules, recent FCC orders and the ever-growing size of the federal universal service fund, the ALJ believes the Commission should look closely at the criteria utilized for determining whether it is in the "public interest" to grant ETC designation to an additional telecommunications provider in the territory of each of the 12 Rural Telephone Companies.

Applying the requirements of 47 U.S.C. § 214(e)(1) to U.S. Cellular, the ALJ finds:

1. U.S. Cellular is a common carrier. U.S. Cellular states that it will provide the services supported by the federal universal service mechanisms throughout the designated service area.
2. The Commission should evaluate whether U.S. Cellular will provide the supported services, on a service-by-service basis. For those services the Commission determines U.S. Cellular either provides or will provide, the ALJ finds provision of the

¹⁸ *GCC License Corporation vs. Oklahoma Corporation Commission and the State of Oklahoma*, Court of Civil Appeals of the State of Oklahoma, Division IV, Case No. 96,260. Order issued November 12, 2002.

¹⁹ Order No. 450765 issued April 11, 2001 in Cause No. PUD 980000470 at paragraph 19.

²⁰ OAC 165:55-23-1 *et seq.* establish service standards for Wireless Eligible Telecommunications Carriers. These standards are applicable however, only to the provision of "Lifeline Service" and "Link Up" by designated wireless ETCs.

services will be made by U.S. Cellular either using its own facilities or a combination of its own facilities and resale of another carrier's services (including the services offered by the wireline carrier).

3. U.S. Cellular states it will advertise the availability of the supported services and the charges therefore, using the same type of advertising media it utilizes for its current wireless services.

4. The ETC service area for U.S. Cellular in areas served by the 12 Rural Telephone Companies would be the study area of the 12 Rural Telephone Companies. U.S. Cellular is authorized to provide commercial mobile radio service ("CMRS") and/or Personal Communications Service ("PCS") within the service area of each of the 12 Rural Telephone Companies.

The FCC, issued a decision January 22, 2004, which should be considered by the Oklahoma Commission in determining whether to grant ETC status to U.S. Cellular. In the case of *In the matter of Federal-State Joint Board on Universal Service Virginia Cellular, L.L.C. Petition for Designation as an Eligible Telecommunications Carrier In the Commonwealth of Virginia*, CC Docket No. 96-45, the FCC stated:

While we await a recommended decision from the Joint Board, we acknowledge the need for a more stringent public interest analysis for ETC designations in rural telephone company service areas. ***The framework enunciated in this Order shall apply to all ETC designations for rural areas pending further action by the Commission. We conclude that the value of increased competition, by itself, is not sufficient to satisfy the public interest test in rural areas.*** Instead, in determining whether designation of a competitive ETC in a rural telephone company's service area is in the public interest, we weigh numerous factors, including the benefits of increased competitive choice, the impact of multiple designations on the universal service fund, the unique advantages and disadvantages of the competitor's service offering, any commitments made regarding quality of telephone service provided by competing providers, and the competitive ETC's ability to provide the supported services throughout the designated service area within a reasonable time frame. Further, in this Order, we impose as ongoing conditions the commitments Virginia Cellular has made on the record in this proceeding. These conditions will ensure that Virginia Cellular satisfies its obligations under section 214 of the Act. We conclude that ***these steps are appropriate in light of the increased frequency of petitions for competitive ETC designations and the potential impact of such designations on consumers in rural areas.***²¹ (*emphasis added*)

The 9 services that are supported by the federal universal support mechanisms are identified in detail above, in the portion of this ALJ report identified as

²¹ FCC decision in CC Docket No. 96-45 released January 22, 2004, at paragraph number 4.

"General Background." The ALJ finds that the Commission should establish a guideline for "local usage" and require U.S. Cellular to meet the local usage guideline for its LifeLine and basic universal service products, as a condition of being designated an ETC. The FCC has not established a specific number of local minutes that must be included in a universal service product. The ALJ finds that U.S. Cellular should be required to include 1000 minutes per month of "local usage" in its universal service and LifeLine products. The local usage minutes should be available at any time of the day or week, without incurring additional charges above the basic universal service plan cost. One of the main complaints at the Commission in recent years has been the high cost of telephone service between customers located within a few miles of each other in rural areas. The rate plans attached to the Settlement in this Cause indicate that U.S. Cellular will offer several local usage plans that include at least 1000 minutes per month of local usage, provided the customer is willing to pay at least \$50 per month for the service. There are several less expensive plans to which a "Nights and Weekend Package" could be added, thereby increasing local service minutes by 4000 minutes per month. However, the local usage available from the "Nights and Weekend Package" will only be available at night and on weekends and will add \$4.95 a month to the local service plan. Unfortunately, the "Nights and Weekend Package" can only be added to a monthly service plan that costs more than \$25 per month, so the least cost plan available as a universal service product (provides the 9 services supported by the federal USF and includes at least 1000 minutes of local usage per month) will cost about \$40 per month before taxes and regulatory fees. The ALJ finds that a basic local service plan that is priced at \$40 per month before taxes and regulatory fees is not comparable to the service available in the non-rural areas of the State. Although U.S. Cellular may offer larger toll free calling areas than those provided by the wireline carrier, if the customer doesn't have access to sufficient minutes of local usage within the standard price of their universal service product, the benefits of the universal service product provided by U.S. Cellular will quickly be offset by additional airtime charges for local calls or the use of all the "free long distance" for calls made within the current local calling scope of the customer.

In granting the petition of Virginia Cellular for designation as an ETC, the FCC found that it was sufficient that Virginia Cellular demonstrated that it would offer minimum local usage as part of its universal service offering. The FCC found that although the FCC did not set a minimum local usage requirement in the *Universal Service Order*, it determined that ETCs should provide some minimum amount of local usage as part of their "basic service" package of supported services. Virginia Cellular stated it would comply with any and all minimum local usage requirements adopted by the FCC. It also indicated it would meet the local usage requirements by including a variety of local usage plans as part of a universal service offering. In addition, Virginia Cellular stated that its current rate plans include access to the local exchange network, and that many plans include a large volume of minutes. Therefore, the FCC found that Virginia Cellular's commitment to provide local usage was sufficient.²²

²² *Id.* at paragraph 20.

In CC Docket No. 96-45, the Federal-State Joint Board on Universal Service ("Joint Board") issued a recommended decision on February 27, 2004 ("Joint Board recommendation") regarding the process for designation of ETCs. Although the Federal Communications Commission has not yet specifically addressed the recommendation of the Joint Board, the ALJ believes the recommended decision of the Joint Board offers guidance for determining whether it is in the "public interest" to designate an ETC other than the ILEC in a rural area.

The Joint Board Recommendation noted that although the FCC has not yet established a minimum local usage requirement, there is nothing in the Act, the FCC's rules, or orders that would limit state commissions from prescribing some amount of local usage as a condition of ETC status. As determined by the Fifth Circuit in *TOPUC v. FCC*, 183 F.3d 393, states may establish their own eligibility requirements for ETC applicants. In determining that unlimited local usage should not be added to the list of services supported by federal universal service, the FCC found that the states are in a better position to determine whether unlimited local usage offerings are beneficial in particular circumstances.²³

The ALJ finds that if the FCC or Oklahoma Corporation Commission in the future establishes a different minimum number of local usage minutes, the amount established by the FCC or Oklahoma Corporation Commission should be the requirement to be met by U.S. Cellular, rather than the 1000 minutes recommended by the ALJ.

In determining whether designation of Virginia Cellular as an ETC would serve the public interest, the FCC considered whether the benefits of an additional ETC in the wire centers for which Virginia Cellular sought designation as an ETC would outweigh any potential harms. The FCC noted that this balancing of benefits and costs is a fact-specific exercise.

In determining whether designation of a competitive ETC in a rural telephone company's service area is in the public interest, we weigh the benefits of increased competitive choice, the impact of the designation on the universal service fund, the unique advantages and disadvantages of the competitor's service offering, any commitments made regarding quality of telephone service and the competitive ETC's ability to satisfy its obligation to serve the designated service areas within a reasonable time frame.²⁴

The FCC further indicated that as part of a pending docket regarding high-cost support in competitive areas, the FCC might adopt a different framework for the public interest analysis of ETC applications.²⁵

²³ Joint Board Recommendation released February 27, 2004, at paragraph 35.

²⁴ FCC decision in CC Docket No. 96-45 regarding Virginia Cellular, L.L.C.'s petition for designation as a ETC, at paragraph 28.

²⁵ Joint Board Recommendation released February 27, 2004, at paragraph 28.

The need to balance benefits and costs in determining whether it is in the public interest to designate an additional ETC within the territory of a rural carrier was also addressed by the Joint Board. The Joint Board Recommendation points out that

"[b]ecause an ETC must be prepared to serve all customers within a designated service area, and must be willing to be the sole ETC should other ETCs withdraw from the market, states may appropriately establish minimum qualifications focused on the carrier's ability to provide the supported services to all consumers in the designated area upon reasonable request. Guidelines encouraging a rigorous application process are appropriate because section 214(e)(2) requires that designation of an additional ETC serve the public interest. Consistent with Section 254(b)(3) of the Act, we believe that a rigorous application process ensures that consumers in all regions of the nation, including rural and low-income consumers, have access to telecommunications services that are reasonably comparable to services provided in urban areas."²⁶

The Joint Board Recommendation further urges that a specific, fact-intensive inquiry be utilized to analyze the public interest when evaluating an ETC application for a rural area. An analysis which only cites generalized benefits of competition when evaluating an ETC application is not sufficient by itself to establish public interest. Section 214 (e)(2) requires states to undertake a fact-intensive analysis to ensure that the designation of any additional ETCs will promote the goals set forth in section 254 of the Act **in the affected area.**²⁷

The ALJ finds that the criteria to be considered in determining whether designation of more than one carrier as an ETC in a rural area is "in the public interest" include:

1. Will the public receive a benefit from the designation of another carrier as an ETC in this service area (e.g. will competition lower the cost of basic local service or encourage the provisioning of advanced services?)
2. Will the goal of universal service be advanced by the designation of another carrier as an ETC in this service area? (e.g. will more customers be connected to the telecommunications network as a result of designating another ETC in this service area?)
3. Will customers who do not have telephone service from the ILEC be able to obtain telephone service as the result of the designation of the carrier as an ETC? (e.g. will the customer have the ability to get telephone service in a location not currently served by the wireline company)

²⁶ Joint Board Recommended Decision issued February 27, 2004 in CC Docket No. 96-15, at paragraph 11.

²⁷ *Id.* paragraph 12.

4. Will there be any adverse effect upon the public by the designation of another carrier as an ETC in this service area? (e.g. will the additional cost to the federal universal service fund be sufficiently offset by the benefits realized by the public as the result of designating a second ETC within a service area?)

The ALJ finds that U.S. Cellular is already authorized to provide telecommunications services within the service territory of the 12 Rural Telephone Companies. Designation as an ETC will enable U.S. Cellular to receive federal universal support for providing universal service, which may encourage U.S. Cellular to build out its network in order to provide service to areas that don't currently have access to high quality telecommunications services. In the absence of designation as an ETC, U.S. Cellular will continue to make a business decision on whether to provide service in a particular area without regard to the potential receipt of universal service support.

Based upon the entire record in this Cause and the clarifications made by the FCC and the Commission since the time of the January 20, 2004 hearing, the ALJ finds that it is not in the public interest to designate an additional ETC within the service area of the 12 Rural Telephone Companies unless certain criteria are agreed to be met by the additional ETC. The 12 Rural Telephone Companies provide high quality service to their customers at affordable rates. They make advanced services available to their customers when it is economically and technically feasible to do so. Competition, in and of itself, is an insufficient reason to designate an additional ETC within the service territory of a rural carrier.

The 12 Rural Telephone Companies provide service within an area of the state where most of the counties²⁸ are considered "tribal land" for the purpose of obtaining Tier IV support for LifeLine and Link Up service.²⁹ The availability of Tier IV support for LifeLine and Link Up customers is currently sufficient to provide \$1 per month basic telephone service to qualifying low-income customers served by the ILEC. Therefore, within the service areas served by the 12 Rural Telephone Companies³⁰ it is more likely that unavailability of service rather than monthly cost, is the constraining factor that prevents qualifying low-income customers from being subscribed to basic local telephone service.

Customers receiving services supported by the federal USF in a rural service area should receive all customer protection benefits that are afforded customers of the ILEC. In the absence of customer protection that is comparable to the customer protections required of the ILEC by the Commission's rules set forth in OAC 165:55, the customer of the wireless ETC will not be receiving service that is comparable to the

²⁸ The service areas of the 12 Rural Telephone Companies include some or all of the following counties: Alfalfa, Cotton, Craig, Garvin, Hughes, Jackson, Jefferson, McCurtain, McIntosh, Muskogee, Okmulgee, Osage, Pittsburg, Pontotoc, and Tulsa.

²⁹ See 47 C.F.R. §§54.400 *et seq.* and 25 C.F.R. 20.1(v).

³⁰ An internet search of the Internal Revenue Service Web site (www.irs.gov) for "Former Indian Reservations in Oklahoma" yields the geographic boundaries of tribal lands within Oklahoma. Said document is attached hereto as "Attachment B."

service available to urban customers. It is not in the public interest to designate an additional ETC within the service areas of the 12 Rural Telephone Companies unless the customers receive services similar to those available in urban areas, at affordable rates. The ALJ finds that a universal service product needs to contain a minimum of 1000 minutes per month local usage, available at any time of the day or week, for a price that is not more than 10 per cent above the highest local exchange rate charged to residential customers in the State of Oklahoma by any ILEC or CLEC. In the absence of service priced within these guidelines, the ALJ finds the service is neither "affordable" nor "comparable" to the service available in urban areas.

The ALJ finds there will be public benefit received by customers within the service area of the 12 Rural Telephone Companies, thereby making it in the public interest to designate U.S. Cellular as an ETC in the service area of the 12 Rural Telephone Companies, **only** if the following conditions are met:

1. If U.S. Cellular complies with all the requirements set forth in the Settlement dated January 20, 2004 and the additional criteria set out in this Report. Said Settlement is attached hereto as "Attachment A.

2. U.S. Cellular shall furnish the Director of the Public Utility Division copies of its universal service offerings for which U.S. Cellular seeks federal universal service support, within 180 days of the Commission Order granting U.S. Cellular ETC status, or at least 30 days prior to commencing to provide the supported services, whichever shall occur first. Failure to submit the required tariffs within 180 days of ETC designation may result in revocation of the ETC designation for U.S. Cellular, after notice and hearing.

3. U.S. Cellular shall agree to be bound by the requirements of OAC 165:55-23-1 *et seq.* with regard to all of its product offerings for which it seeks funding from the federal universal service fund; not just for its Lifeline and Link Up services.

4. U.S. Cellular shall include a minimum of 1000 minutes per month of "local usage" within its universal service product. The local usage minutes should be available at any time of the day or week, without incurring additional charges above the basic universal service plan cost. The basic universal service product should not be priced more than 10 per cent above the highest local exchange rate charged for residential service in Oklahoma by any ILEC or CLEC.

5. U.S. Cellular shall agree to accept carrier of last resort responsibility within each Rural Telephone Company's service area for which it is granted ETC designation.

A second Application is pending for designation as an ETC within the service areas of Beggs Telephone Company, Canadian Valley Telephone Company and Oklahoma Telephone and Telegraph, Inc.³¹ The ALJ therefore finds that the public

³¹ See PUD 200300239, Application of Dobson Cellular Systems, Inc. for designation as an eligible telecommunications carrier pursuant to the Telecommunications Act of 1996.

interest is only met if the Commission grants ETC designation to any other wireless carrier providing service within the service area of the 12 Rural Telephone Companies; provided the wireless carrier makes application for ETC status and agrees to be bound by the same requirements set forth herein for U.S. Cellular.

Recommendation of the Administrative Law Judge

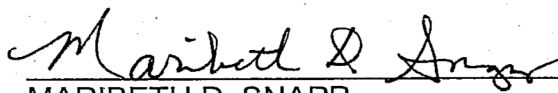
The ALJ recommends the Commission grant U.S. Cellular ETC status within the requested wire centers served by SBC Oklahoma and Valor.

The ALJ further recommends the Commission only find it is in the public interest to grant U.S. Cellular ETC status within the service areas of the 12 Rural Telephone Companies, if U.S. Cellular agrees to meet the 5 criteria set forth above. If U.S. Cellular is unable or unwilling to meet the above criteria, the Commission should grant U.S. Cellular ETC designation only within the requested areas of SBC Oklahoma and Valor, but deny U.S. Cellular ETC designation within the service areas of the 12 Rural Telephone Companies. In the absence of these 5 criteria being met, it is not in the public interest to designate an additional ETC within the service areas of the 12 Rural Telephone Companies, because the customers will not gain a sufficient benefit unless U.S. Cellular is obligated to build out its system to serve customer locations not currently able to obtain any type of telephone service and is obligated to subject itself to the customer complaint protections available to customers that obtain service from the incumbent Local Exchange Carrier. Additionally, it is not in the public interest to grant ETC status to a carrier that does not provide affordable service that is comparable to the service available in urban areas.

The 12 Rural Telephone Companies need funds from the federal universal service fund in order to be able to afford to provide high quality service within their respective service areas, due to the lack of customer density within the service areas. The use of quasi-public funds to encourage "competition" in areas that cannot support a single provider from the available customer revenue, cannot be in the public interest, unless the additional ETCs are able to provide the services supported by the federal universal service fund in locations not otherwise available from the incumbent wireline provider.

If the above 5 criteria are agreed to by U.S. Cellular, the ALJ recommends the Commission designate U.S. Cellular as an ETC within the service area of each of the 12 Rural Telephone Companies.

Respectfully submitted this 7th day of July 2004.


MARIBETH D. SNAPP
Administrative Law Judge

BEFORE THE CORPORATION COMMISSION
OF THE STATE OF OKLAHOMA

FILED
JAN 20 2004

COURT CLERK'S OFFICE - OKC
CORPORATION COMMISSION
OF OKLAHOMA

APPLICATION OF UNITED)
STATES CELLULAR CORPORA-)
TION FOR DESIGNATION)
AS AN ELIGIBLE TELECOM-)
MUNICATIONS CARRIER)
PURSUANT TO THE TELECOM-)
MUNICATIONS ACT OF 1996.)

CAUSE NO. PUD 200300195

SETTLEMENT AGREEMENT

Come now the Public Utility Division of the Oklahoma Corporation Commission ("Staff"); Atlas Telephone Company, Beggs Telephone Company, Inc., Bixby Telephone Company, Inc., Canadian Valley Telephone Company, Mid-America Telephone, Inc., Oklahoma Telephone & Telegraph, Inc., Pine Telephone Company, Santa Rosa Telephone Cooperative, Inc., Shidler Telephone Company, South Central Telephone Association, Inc., Terral Telephone Company, and Valliant Telephone Company (collectively "RTCs"); and United States Cellular Corporation ("U.S. Cellular"), on behalf of itself and its affiliates and subsidiaries; and, present this Settlement Agreement to the Oklahoma Corporation Commission ("Commission") for consideration and approval. The Settlement Agreement sets forth the agreement of the signatory parties as to the resolution of the application of U.S. Cellular for designation as an eligible telecommunications carrier ("ETC") pursuant to the Telecommunications Act of 1996 (the "Act").

WHEREAS, on April 15, 2003, U.S. Cellular filed its application with this Commission requesting designation as an ETC in the RTCs' service territories, and in certain non-rural telephone company service territories of Southwestern Bell Telephone, L.P., d/b/a SBC

Oklahoma ("SBC") and Valor Telecommunications of Texas, LP, d/b/a Valor Telecom ("Valor");

WHEREAS, on June 20, 2003, U.S. Cellular filed an Amended Application with this Commission acknowledging that it is not licensed by the Federal Communications Commission ("FCC") to provide service throughout the entire study areas of certain RTCs, and accordingly requested that the Commission redefine the service areas of those particular RTCs so that each individual wire center would be classified as a separate service area;

WHEREAS, on October 10, 2003, U. S. Cellular filed a Second Amended Application withdrawing its request for ETC status with respect to those RTCs for which U.S. Cellular's FCC license covers only a portion of their study areas;

WHEREAS, on October 23, 2003 and November 24, 2003, Prehearing Conferences were held before the Administrative Law Judge ("ALJ");

WHEREAS, at the request of the ALJ, the parties have submitted briefs which address issues in this cause which are not resolved by this Settlement Agreement;

WHEREAS, on October 23, 2003, following the Prehearing Conference, a Settlement Conference was held among the parties to this Settlement Agreement;

WHEREAS, as a result of the Settlement Conference and subsequent negotiations, the parties have negotiated an agreement which each believes is a fair and equitable resolution and settlement of this cause; which represents a fair and reasonable balancing of the respective parties' interests; and which is in the public interest;

NOW, THEREFORE, the parties agree and stipulate that the Commission should enter an Order in this Cause which contains the following:

1. No party to the cause opposed the designation of U.S. Cellular as an ETC in the non-rural service areas of SBC and Valor; and, U.S. Cellular should be designated by the Commission as an ETC in the non-rural local service exchanges of SBC and Valor as listed in U.S. Cellular's Revised Exhibit A, attached to its Second Amended Application, filed on October 10, 2003, and also attached hereto as Attachment A.
2. U.S. Cellular should be designated by the Commission as an ETC in the rural local service exchanges of the signatory RTCs listed in U.S. Cellular's Revised Exhibit B, attached to its Second Amended Application, and also attached hereto as Attachment B.
3. As a condition to its designation as an ETC in the RTCs' study areas, U.S. Cellular shall meet the following requirements and submit itself to oversight of the Commission, insofar as necessary to determine whether it has met and will continue to meet such requirements:

(a) **Customer Requests for Service.**

(1) U.S. Cellular shall provide quality universal service to a requesting customer in accordance with such request no later than ninety (90) days from the date of the customer's bona fide reasonable request. If U. S. Cellular determines that it cannot provide service on a reasonable basis within said time frame, it may seek a waiver of such requirement from the Commission, and upon notice and, if necessary, a hearing, the Commission shall determine if such waiver shall be granted. Upon filing such of an application for waiver, U.S. Cellular shall provide a copy of the application to the RTC in whose service territory the waiver is sought.

(2) If a request comes from a customer within U.S. Cellular's existing network, it will rapidly provide service to the customer.

(3) If a request comes from a customer residing in any area where U.S. Cellular does not provide service, U.S. Cellular will take a series of steps to provision service to such customer.

- First, it will determine whether the customer's equipment can be modified or replaced to provide acceptable service.
- Second, it will determine whether a roof-mounted antenna or other network equipment can be deployed at the premises to provide service.

- Third, it will determine whether adjustments at the nearest cell site can be made to provide service.
- Fourth, it will determine whether there are any other adjustments to network or customer facilities which can be made to provide service.
- Fifth, it will explore the possibility of offering the resold service of carriers that have facilities available to the customer's location.
- Sixth, it will determine whether an additional cell site, a cell-extender, or repeater can be employed or can be constructed to provide service, and evaluate the costs and benefits of using scarce high-cost support to serve the number of customers requesting service.

(4) If there is no possibility of providing service short of the measures set forth in the sixth step above, within ninety (90) days of the customer's request for service, U.S. Cellular shall file an application seeking a waiver in the manner set forth above in paragraph 3(a)(1) above. In such application, U.S. Cellular shall state the estimated cost of providing service to the requesting customer and U.S. Cellular's positions on whether the request for

service is reasonable and whether high-cost funds should be expended on the request.

(b) **Reporting of Universal Service Offering.** Attached to and made a part of this Settlement Agreement as Attachment C are informational sheets which provide information concerning the price and minutes of use of U.S. Cellular's offerings, each of which provides customers with the nine services supported by the high-cost mechanism. The terms and conditions of such offerings are also attached hereto as part of Attachment C and are accessible by U.S. Cellular's customers on the company's website, http://www.uscc.com/uscellular/SilverStream/Pages/r_terms_conditions.html. U.S. Cellular shall file a report on July 15th of each year with the Commission which includes a verified statement that U.S. Cellular's Universal Service offering(s) contain the services required under the Act and Federal Rules for the receipt of USF funds. Said report shall also contain a description of all U.S. Cellular's rate plans, setting forth the rates, minutes of use and terms and conditions of service of said plans, along with a confirmation that each plan provides the supported services. If U.S. Cellular provides a new service to customers in Oklahoma subsequent to the annual reporting date set forth above in this paragraph, it will, within thirty (30) days of first making such service available to customers, file an affidavit stating the information set forth above with respect to such service. Within thirty (30) days of being designated as an ETC by the Commission, U.S. Cellular shall make an

informational filing with respect to its initial tariff, which includes terms, conditions, service descriptions, discount descriptions and rates that U.S. Cellular will make available and apply to customers who are eligible for Lifeline and Link-up services.

(c) **Reporting of Utilization of USF Funds.** The report which U.S. Cellular files with the Commission on July 15th of each year, in a format determined by the Commission, shall include a certification by U.S. Cellular that it has and will continue to use USF funds for the purposes intended as set forth in Section 254(e) of the Act, shall include information as to the amount of USF funds received and information as to how such funds have been used.

(d) **Reporting of Customer Complaints.** U.S. Cellular shall file quarterly reports with the Commission concerning customer service requests and complaints. The reports shall be in the form and use the codes attached hereto as Attachment "D." One of these reports will contain all of the calls from U.S. Cellular's Oklahoma customers which appear on U.S. Cellular's statistical summary of customer service calls. The other report will contain all of the calls from U.S. Cellular's Oklahoma customers which appear on U.S. Cellular's Remedy Log. U.S. Cellular shall also provide its customers with the telephone number of the Commission's Consumer Services Division where such customers can submit complaints concerning the ETC services provided by U.S. Cellular.

U.S. Cellular acknowledges that the Commission has authority to arbitrate complaints by U.S. Cellular's customers concerning the service U.S. Cellular provides as a result of being designated an ETC. If a complaint by a U.S. Cellular customer concerning such service cannot be resolved by U.S. Cellular or the Commission staff, an interested party may initiate a formal proceeding at the Commission to resolve such dispute.

(e) Advertising Universal Service Offerings. Within thirty (30) days of being designated an ETC by the Commission, U.S. Cellular shall provide the Commission with its plan for advertising U.S. Cellular's universal service offerings. The advertising plan shall include: (i) information as to how U.S. Cellular will advertise the supported services and the corresponding charges for such services in a manner consistent with 47 U.S.C. § 214(e)(1); and, (ii) a description of the media or other outlets U.S. Cellular will use for such advertising.

4. Any interested party, including Staff, may initiate a proceeding with the Commission alleging that information contained in the various reports which U.S. Cellular has agreed to file pursuant to the terms of this Settlement Agreement, or other information known by such party, indicates that U.S. Cellular has not complied with its obligations as an ETC under the Act, the applicable FCC Rules or the Order which the Commission issues pursuant to this Settlement Agreement, and in that proceeding, such party may seek to have the Commission issue an order

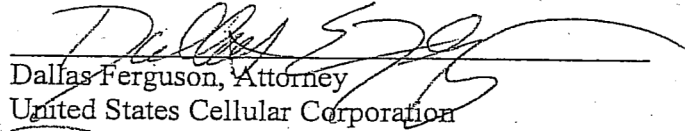
stating that U.S. Cellular's designation as an ETC in Oklahoma should be revoked by the ~~appropriate party or parties~~ *OW DS DBB RC KCB*

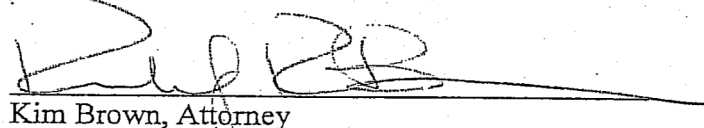
5. In the event the terms of this Settlement Agreement are not incorporated in their entirety in an Order of the Commission, without condition or modification by the Commission, it shall be null and void and no party shall be bound by any of its provisions.

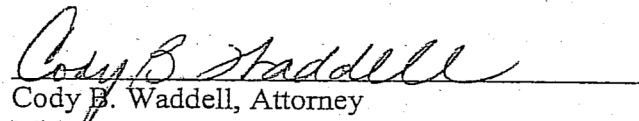
6. This Settlement Agreement represents a negotiated settlement with respect to U.S. Cellular's application, and if the matter were litigated, the individual parties' positions might be different; the terms and conditions hereof are interrelated and interdependent; and the Settlement Agreement represents a balancing of the interests of each of the parties hereto in consideration for the agreements and commitments made by one another in connection herewith.

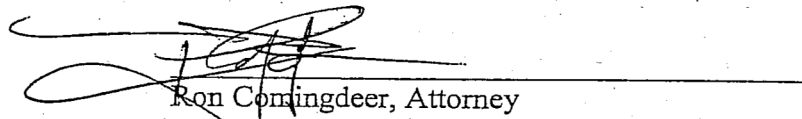
7. Accordingly, it is explicitly recognized by the parties that the execution of this Settlement Agreement by each party hereto shall not be construed as agreement or acquiescence by any one or all of the parties to any particular issue raised herein; nor, shall the terms of this Settlement Agreement be considered to have any precedential value, either binding or persuasive, in any future proceedings before this Commission, or any other state or federal court or agency.

WHEREFORE, the parties hereto submit this Settlement Agreement as their negotiated settlement of the matters addressed herein, and respectfully request the Administrative Law Judge to recommend and the Commission to order its approval.


Dallas Ferguson, Attorney
United States Cellular Corporation

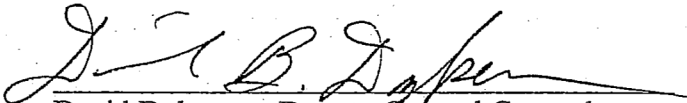

Kim Brown, Attorney
Pine Telephone Company


Cody B. Waddell, Attorney
Mid-America Telephone, Inc.


Ron Comingdeer, Attorney
Atlas Telephone Company
Beggs Telephone Company, Inc.
Bixby Telephone Company, Inc.
Canadian Valley Telephone Company
Oklahoma Telephone & Telegraph, Inc.
Santa Rosa Telephone Cooperative, Inc.
Shidler Telephone Company
South Central Telephone Association, Inc.
Terral Telephone Company
Valliant Telephone Company

The Public Utility Division (PUD) of the Oklahoma Corporation Commission is in agreement with all provisions of this Settlement Agreement except for the final sentence in paragraph 3(b) on pages 6 and 7. The PUD thinks that sentence should read as set out below and hereby indicates its approval of this Settlement Agreement with that exception and reservation:

Within thirty (30) days of being designated as an ETC by the Commission, U.S. Cellular shall file and seek Commission approval of its Lifeline and Link-up services tariff, which includes terms, conditions, service descriptions, discount descriptions, rates and customer discounts that U.S. Cellular will make available and apply to customers who are eligible for Lifeline and Link-up services.

A handwritten signature in dark ink, appearing to read "D. B. Dykeman", is written over a horizontal line.

David Dykeman, Deputy General Counsel,
Public Utility Division, Oklahoma Corporation
Commission

DOMSWITCH	OCN	OCNAME	LATNAME	CITY	STATE	ZIP
ADA OKMADS1	435215	SOUTHWESTERN BELL	OKLAHOMA CITY OK	ADA	OK	74820
ALLNOKMARS1	435215	SOUTHWESTERN BELL	OKLAHOMA CITY OK	ALLEN	OK	74825
ALLWOKMARS1	435215	SOUTHWESTERN BELL	TULSA OK	ALLUWE	OK	74016
ALTSOKMADS0	435215	SOUTHWESTERN BELL	OKLAHOMA CITY OK	ALTUS	OK	73521
ALVAOKMARS1	435215	SOUTHWESTERN BELL	OKLAHOMA CITY OK	ALVA	OK	73717
ANTLOKMAR1	435215	SOUTHWESTERN BELL	OKLAHOMA CITY OK	ANTLERS	OK	74523
ARCYKSSODS0	435215	SOUTHWESTERN BELL	WICHITA KS	AR CITY	KS	67005
ARMROKMADS1	435215	SOUTHWESTERN BELL	OKLAHOMA CITY OK	ARDMORE	OK	73401
ATOKOKMARL1	435215	SOUTHWESTERN BELL	OKLAHOMA CITY OK	ATOKA	OK	74525
BGTNOKMARS1	435215	SOUTHWESTERN BELL	OKLAHOMA CITY OK	BENNINGTON	OK	74723
BLNGOKMARS1	435215	SOUTHWESTERN BELL	OKLAHOMA CITY OK	BILLINGS	OK	74630
BLWLOKMAR1	435215	SOUTHWESTERN BELL	OKLAHOMA CITY OK	BLACKWELL	OK	74631
BRGSOKMARS1	435215	SOUTHWESTERN BELL	TULSA OK	BRAGGS	OK	74423
BRRGOKMARL0	435215	SOUTHWESTERN BELL	OKLAHOMA CITY OK	FAIRMONT	OK	73736
BRWOKMARL1	435215	SOUTHWESTERN BELL	TULSA OK	BRISTOW	OK	74010
BRVLOKEDRSC	435215	SOUTHWESTERN BELL	TULSA OK	BARTLESVILLE	OK	74006
BRVLOKFEDS0	435215	SOUTHWESTERN BELL	TULSA OK	BARTLESVILLE	OK	74003
BSWLOKMAR1	435215	SOUTHWESTERN BELL	OKLAHOMA CITY OK	BOSWELL	OK	74727
CACHOKMARS1	435215	SOUTHWESTERN BELL	OKLAHOMA CITY OK	CACHE	OK	73527
CADDOKMARS1	435215	SOUTHWESTERN BELL	OKLAHOMA CITY OK	CADDO	OK	74729
CDWRKSLURS0	435215	SOUTHWESTERN BELL	WICHITA KS	COLDWATER	KS	67029
CFVLKS10DS0	435215	SOUTHWESTERN BELL	WICHITA KS	COFFEYVILLE	KS	67337
CHLSOKMARS1	435215	SOUTHWESTERN BELL	TULSA OK	CHELSEA	OK	74016
CHRKOKMARS1	435215	SOUTHWESTERN BELL	OKLAHOMA CITY OK	CHEROKEE	OK	73728
CLEVOKMARL1	435215	SOUTHWESTERN BELL	TULSA OK	CLEVELAND	OK	74020
CLGTOKMARS1	435215	SOUTHWESTERN BELL	OKLAHOMA CITY OK	COALGATE	OK	74538
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CMMROKMARS1	435215	SOUTHWESTERN BELL	TULSA OK	COMMERCE	OK	74339
COPNOKMARS1	435215	SOUTHWESTERN BELL	TULSA OK	COPAN	OK	74022
COVLOKMAR1	435215	SOUTHWESTERN BELL	TULSA OK	COLLINSVILLE	OK	74021
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DLWROKMARS1	435215	SOUTHWESTERN BELL	TULSA OK	DE	OK	74027
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DRMROKMARL1	435215	SOUTHWESTERN BELL	TULSA OK	DRUMRIGHT	OK	74030
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FRVWOKMARS1	435215	SOUTHWESTERN BELL	OKLAHOMA CITY OK	FAIRVIEW	OK	73737
FTGBOKMARS1	435215	SOUTHWESTERN BELL	TULSA OK	FT GIBSON	OK	74434
FTTWOKMARS1	435215	SOUTHWESTERN BELL	OKLAHOMA CITY OK	FORT TOWSON	OK	74735
HDLVOKMARS1	435215	SOUTHWESTERN BELL	OKLAHOMA CITY OK	HOLDENVILLE	OK	74848
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HLTNOKMARS1	435215	SOUTHWESTERN BELL	OKLAHOMA CITY OK	HEALDTON	OK	73438
HNRYOKMARS1	435215	SOUTHWESTERN BELL	TULSA OK	HENRYETTA	OK	74437
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HUGOOKMARS1	435215	SOUTHWESTERN BELL	OKLAHOMA CITY OK	HUGO	OK	74743
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SPLPOKMARS1	435215	SOUTHWESTERN BELL	TULSA OK	SAPULPA	OK	74066
SRFROKMARS1	435215	SOUTHWESTERN BELL	OKLAHOMA CITY OK	STRATFORD	OK	74872
STGLOKMARS1	435215	SOUTHWESTERN BELL	TULSA OK	STIGLER	OK	74462
STWROKMADS0	435215	SOUTHWESTERN BELL	OKLAHOMA CITY OK	STILLWATER	OK	74074
TNKWOKMARS1	435215	SOUTHWESTERN BELL	OKLAHOMA CITY OK	TONKAWA	OK	74653
TSMGOKMARS1	435215	SOUTHWESTERN BELL	OKLAHOMA CITY OK	TISHOMINGO	OK	73460
TULSOKAMRS1	435215	SOUTHWESTERN BELL	TULSA OK	CATOOSE	OK	74015
TULSOKFIRSC	435215	SOUTHWESTERN BELL	TULSA OK	TULSA	OK	74126
TULSOKGERSC	435215	SOUTHWESTERN BELL	TULSA OK	TULSA	OK	74116
TULSOKHIRSC	435215	SOUTHWESTERN BELL	TULSA OK	TULSA	OK	74107
TULSOKJERSC	435215	SOUTHWESTERN BELL	TULSA OK	JENKS	OK	74037
TULSOKNADS0	435215	SOUTHWESTERN BELL	TULSA OK	TULSA	OK	74145
TULSOKOWRSC	435215	SOUTHWESTERN BELL	TULSA OK	OWASSO	OK	74055
TULSOKRIDS0	435215	SOUTHWESTERN BELL	TULSA OK	TULSA	OK	74105
TULSOKSARSC	435215	SOUTHWESTERN BELL	TULSA OK	SAND SPGS	OK	74063
TULSOKSPRS2	435215	SOUTHWESTERN BELL	TULSA OK	SPERRY	OK	74073
TULSOKTBDSD	435215	SOUTHWESTERN BELL	TULSA OK	TULSA	OK	74120
TULSOKTERSC	435215	SOUTHWESTERN BELL	TULSA OK	TULSA	OK	74115
TULSOKWODSD	435215	SOUTHWESTERN BELL	TULSA OK	TULSA	OK	74136
TUPLOKMARS1	435215	SOUTHWESTERN BELL	OKLAHOMA CITY OK	TUPELO	OK	74572

VINTOKMARS1	435215 SOUTHWESTERN BELL	TULSA OK	VINITA	OK	74301
WARKOKMARS1	435215 SOUTHWESTERN BELL	OKLAHOMA CITY OK	WAURIKA	OK	73573
WBTNOKMARS1	435215 SOUTHWESTERN BELL	TULSA OK	WILBURTON	OK	74578
WEWKOKMARS1	435215 SOUTHWESTERN BELL	OKLAHOMA CITY OK	WEWOKA	OK	74884
WKMSOKMARS1	435215 SOUTHWESTERN BELL	OKLAHOMA CITY OK	WAUKOMIS	OK	73773
WLSNOKMARS1	435215 SOUTHWESTERN BELL	OKLAHOMA CITY OK	WILSON	OK	73463
WLTOKMARS1	435215 SOUTHWESTERN BELL	OKLAHOMA CITY OK	WELEETKA	OK	74880
WLTROKARS1	435215 SOUTHWESTERN BELL	OKLAHOMA CITY OK	WALTERS	OK	73572
WPNCOKMARL1	435215 SOUTHWESTERN BELL	OKLAHOMA CITY OK	WAPANUCKA	OK	73461
WTMOKMARS1	435215 SOUTHWESTERN BELL	OKLAHOMA CITY OK	WETUMKA	OK	74883
WYWDOKMARS1	435215 SOUTHWESTERN BELL	OKLAHOMA CITY OK	WYNNEWOOD	OK	73098
YALEOKMARS1	435215 SOUTHWESTERN BELL	TULSA OK	YALE	OK	74085
IDBLOKHARL1	435215 SOUTHWESTERN BELL	OKLAHOMA CITY OK	IDABEL	OK	74745
MRTTOKMARS1	435215 SOUTHWESTERN BELL	OKLAHOMA CITY OK	MARIETTA	OK	73448
RNNGOKMARS1	435215 SOUTHWESTERN BELL	OKLAHOMA CITY OK	RINGLING	OK	73456
RTTNOKMARS1	435215 SOUTHWESTERN BELL	OKLAHOMA CITY OK	RATTAN	OK	74562
GRANOKMARS1	435215 SOUTHWESTERN BELL	OKLAHOMA CITY OK	GRANITE	OK	73547
MRLNOKMARS1	435215 SOUTHWESTERN BELL	OKLAHOMA CITY OK	MARLAND	OK	74644
GLCOOKMARS1	435215 SOUTHWESTERN BELL	OKLAHOMA CITY OK	GLENCOE	OK	74032
ASHROKXADS0	431165 VALOR TELECOMMUNICATIONS OF OKLAHOMA	OKLAHOMA CITY OK	ASHER	OK	74826
AVNTOKXCRS0	431165 VALOR TELECOMMUNICATIONS OF OKLAHOMA	TULSA OK	BARNSDALL	OK	74002
BRAROKXADS0	431165 VALOR TELECOMMUNICATIONS OF OKLAHOMA	TULSA OK	BROKEN ARROW	OK	74012
BRAROKXBDS0	431165 VALOR TELECOMMUNICATIONS OF OKLAHOMA	TULSA OK	TULSA	OK	74133
BRAROKXCDS0	431165 VALOR TELECOMMUNICATIONS OF OKLAHOMA	TULSA OK	BROKEN ARROW	OK	74011
BRAROKXDDS0	431165 VALOR TELECOMMUNICATIONS OF OKLAHOMA	TULSA OK	BROKEN ARROW	OK	74012
BRAROKXEDS0	431165 VALOR TELECOMMUNICATIONS OF OKLAHOMA	TULSA OK	BROKEN ARROW	OK	74014
BRNSOKXADS0	431165 VALOR TELECOMMUNICATIONS OF OKLAHOMA	TULSA OK	BARNSDALL	OK	74002
BYTNOKXBRLO	431165 VALOR TELECOMMUNICATIONS OF OKLAHOMA	TULSA OK	BOYNTON	OK	74422
CHTHOKXDDS0	431165 VALOR TELECOMMUNICATIONS OF OKLAHOMA	TULSA OK	CHECOTAH	OK	74426
COWTOKXBDS0	431165 VALOR TELECOMMUNICATIONS OF OKLAHOMA	TULSA OK	COWETA	OK	74429
FRFXOKXADS0	431165 VALOR TELECOMMUNICATIONS OF OKLAHOMA	TULSA OK	FAIRFAX	OK	74637
HMNYOKXBDS0	431165 VALOR TELECOMMUNICATIONS OF OKLAHOMA	TULSA OK	HOMINY	OK	74035
HSKLOKXADS0	431165 VALOR TELECOMMUNICATIONS OF OKLAHOMA	TULSA OK	HASKELL	OK	74436
KWCYOKXADS0	431165 VALOR TELECOMMUNICATIONS OF OKLAHOMA	OKLAHOMA CITY OK	KAW CITY	OK	74641
LNSDOKXADS0	431165 VALOR TELECOMMUNICATIONS OF OKLAHOMA	OKLAHOMA CITY OK	LINDSAY	OK	73052
MEKROKXADS0	431165 VALOR TELECOMMUNICATIONS OF OKLAHOMA	OKLAHOMA CITY OK	MEEKER	OK	74855
MRRSOKXCDS0	431165 VALOR TELECOMMUNICATIONS OF OKLAHOMA	TULSA OK	MORRIS	OK	74445

MYVLOKXARS0	431165	VALOR TELECOMMUNICATIONS OF OKLAHOMA LLC - OK	OKLAHOMA CITY OK	MAYSVILLE	OK	73057
PADNOKXARS0	431165	VALOR TELECOMMUNICATIONS OF OKLAHOMA LLC - OK	OKLAHOMA CITY OK	PADEN	OK	74860
PRAGOKXADS0	431165	VALOR TELECOMMUNICATIONS OF OKLAHOMA LLC - OK	OKLAHOMA CITY OK	PRAGUE	OK	74864
PRCLOKXADS0	431165	VALOR TELECOMMUNICATIONS OF OKLAHOMA LLC - OK	OKLAHOMA CITY OK	PURCELL	OK	73080
PTEROKXCRS0	431165	VALOR TELECOMMUNICATIONS OF OKLAHOMA LLC - OK	TULSA OK	PORTER	OK	74454
RAMNOKXARS0	431165	VALOR TELECOMMUNICATIONS OF OKLAHOMA LLC - OK	TULSA OK	RAMONA	OK	74061
SNGHOKXARS0	431165	VALOR TELECOMMUNICATIONS OF OKLAHOMA LLC - OK	TULSA OK	SNUG HARBOR	OK	74467
STLSOKXARS0	431165	VALOR TELECOMMUNICATIONS OF OKLAHOMA LLC - OK	OKLAHOMA CITY OK	ST LOUIS	OK	74854
STRDOKXADS0	431165	VALOR TELECOMMUNICATIONS OF OKLAHOMA LLC - OK	TULSA OK	STROUD	OK	74079
TCMSOKXBDS0	431165	VALOR TELECOMMUNICATIONS OF OKLAHOMA LLC - OK	OKLAHOMA CITY OK	TECUMSEH	OK	74873
WASHOKXARS0	431165	VALOR TELECOMMUNICATIONS OF OKLAHOMA LLC - OK	OKLAHOMA CITY OK	WASHINGTON	OK	73080
WAYNOKXARS0	431165	VALOR TELECOMMUNICATIONS OF OKLAHOMA LLC - OK	OKLAHOMA CITY OK	WAYNE	OK	73095
WGNROKXDDS0	431165	VALOR TELECOMMUNICATIONS OF OKLAHOMA LLC - OK	TULSA OK	WAGONER	OK	74467

CLLI	SAC	OCNAME	LATA	LATANAME	CITY	STATE	ZIP
BGCBOXADS0	431966	ATLAS TELEPHONE CO.	538	TULSA OK	BIG CABIN	OK	74332
BLJOKXADS0	431966	ATLAS TELEPHONE CO.	538	TULSA OK	BLUEJACKET	OK	74333
WLCHOKXADS0	431966	ATLAS TELEPHONE CO.	538	TULSA OK	WELCH	OK	74369
BGGSOKXADS1	431968	BEGGS TELEPHONE CO. INC.	538	TULSA OK	BEGGS	OK	74421
BXBYOKXADS0	431969	BIXBY TELEPHONE CO. INC.	538	TULSA OK	BIXBY	OK	74008
BXBYOKXBDS0	431969	BIXBY TELEPHONE CO. INC.	538	TULSA OK	BIXBY	OK	74008
CNDNOKXADS0	431974	CANADIAN VALLEY TELEPHONE CO.	538	TULSA OK	CANADIAN	OK	74425
CRWROKXADS0	431974	CANADIAN VALLEY TELEPHONE CO.	538	TULSA OK	CANADIAN	OK	74425
BRMDOKXARS0	432010	MID-AMERICA TELEPHONE INC.	536	OKLAHOMA CITY OK	BROMIDE	OK	73461
FSTWOKXARS0	432010	MID-AMERICA TELEPHONE INC.	536	OKLAHOMA CITY OK	FITSTOWN	OK	74842
HNPNOXARS0	432010	MID-AMERICA TELEPHONE INC.	536	OKLAHOMA CITY OK	HENNEPIN	OK	73444
STNWOKXADS0	432010	MID-AMERICA TELEPHONE INC.	536	OKLAHOMA CITY OK	STONEWALL	OK	74871
CNHLOKXARS1	432013	OKLAHOMA TELEPHONE & TELEGRAPH INC.	538	TULSA OK	COUNCIL HILL	OK	74428
DSTNOKXADS0	432013	OKLAHOMA TELEPHONE & TELEGRAPH INC.	538	TULSA OK	DUSTIN	OK	74839
HANNOKXARS1	432013	OKLAHOMA TELEPHONE & TELEGRAPH INC.	538	TULSA OK	HANNA	OK	74845
HCHTOKXADS0	432013	OKLAHOMA TELEPHONE & TELEGRAPH INC.	538	TULSA OK	HITCHITA	OK	74428
INDNOKXARS1	432013	OKLAHOMA TELEPHONE & TELEGRAPH INC.	538	TULSA OK	INDIANOLA	OK	74442
SCIPOKXARS1	432013	OKLAHOMA TELEPHONE & TELEGRAPH INC.	538	TULSA OK	SCIPLO	OK	74501
BRKBOKXADS0	432017	PINE TELEPHONE CO.	536	OKLAHOMA CITY OK	BROKEN BOW	OK	74728
EGTNOKXADS0	432017	PINE TELEPHONE CO.	536	OKLAHOMA CITY OK	EAGLETOWN	OK	74734
HCTWOKXADS0	432017	PINE TELEPHONE CO.	536	OKLAHOMA CITY OK	HOCHATOWN	OK	74724
OKHLOKXADS0	432017	PINE TELEPHONE CO.	536	OKLAHOMA CITY OK	OAK HILL	OK	74728
WRCYOKXADS0	432017	PINE TELEPHONE CO.	536	OKLAHOMA CITY OK	WRIGHT CITY	OK	74766
DEVLOKXARS1	432141	SANTA ROSA TELEPHONE COOPERATIVE INC.	536	OKLAHOMA CITY OK	DEVOL	OK	73531
EMEROKXARS1	432141	SANTA ROSA TELEPHONE COOPERATIVE INC.	536	OKLAHOMA CITY OK	ELMER	OK	73539
RNDTOKXARS1	432141	SANTA ROSA TELEPHONE COOPERATIVE INC.	536	OKLAHOMA CITY OK	RANDLETT	OK	73562
FRKROKXARS1	432023	SHIDLER TELEPHONE CO.	538	TULSA OK	SHIDLER	OK	74652
GRNLOKXARS1	432023	SHIDLER TELEPHONE CO.	538	TULSA OK	SHIDLER	OK	74652
SHDLOKXADS0	432023	SHIDLER TELEPHONE CO.	538	TULSA OK	SHIDLER	OK	74652
WBCYOKXARS1	432023	SHIDLER TELEPHONE CO.	538	TULSA OK	SHIDLER	OK	74652
WYNNOKXADS0	432023	SHIDLER TELEPHONE CO.	538	TULSA OK	WYNONA	OK	74084
BURLOKXARS1	431831	SOUTH CENTRAL TELEPHONE ASSOCIATION INC.	536	OKLAHOMA CITY OK	BURLINGTON	OK	73722
BYRNOKXARS1	431831	SOUTH CENTRAL TELEPHONE ASSOCIATION INC.	536	OKLAHOMA CITY OK	BYRON	OK	73722
TRRLOKXADS1	432029	TERRAL TELEPHONE CO	536	OKLAHOMA CITY OK	TERRAL	OK	73569
MLLTOKXADS0	432032	VALLIANT TELEPHONE CO	536	OKLAHOMA CITY OK	MILLERTON	OK	74764
RUFEOKXADS0	432032	VALLIANT TELEPHONE CO	536	OKLAHOMA CITY OK	RUFE	OK	74755
VLNTOKXADS0	432032	VALLIANT TELEPHONE CO	536	OKLAHOMA CITY OK	VALLIANT	OK	74764

U.S. Cellular
Rate Plans Available in Oklahoma

Local Plans

Price	Minutes
25	125
35	400
40	700
50	1000
75	1500
100	2000
140	2800
200	4000

Local Calling Area: Entirety of USCC's coverage area in OK, Southwestern Kansas, and Northern Texas [and southern TX?]; see USCC's brochure for illustration.

Included Features: \$25 plan: Call Waiting, Call Forwarding, Three Way Calling.
All other plans: Include all features of \$25 plan plus Voice Mail, Caller ID and Detailed Billing

Roaming Rate: \$0.69 per minute (nationwide, includes long distance)
Calls Made Within Five State Expanded Local Calling Area (see brochure for illustration): \$0.30/min
Additional Per Minute Rate: \$0.40 for plans \$50 and under, \$0.30 for plans over \$50.
Share Talk (not avail. On \$25 plan): \$15.00/mo

Regional Plans

Price	Minutes
35	300
40	500
50	700

75 1100
100 1500
140 2200
200 3200

Local Calling Area: All of Oklahoma, Kansas, Missouri, Arkansas, and Texas

Included Features: Voice Mail, Call Waiting, Caller ID, Call Forwarding, Three-Way Calling, Detailed Billing

Roaming Rate: \$0.69 per minute (nationwide, includes long distance)
Additional Per Minute Rate: \$0.40 for plans \$50 and under; \$0.30 for plans over \$50.
Share Talk: \$20/mo.

SpanAmerica Plans (Nationwide Calling Throughout Continental US)

Price	Minutes
35	200
40	250
50	400
75	700
100	1000
140	1500
200	2000

Local Calling Area: Continental United States

Included Features: Voice Mail, Call Waiting, Caller ID, Call Forwarding, Three-Way Calling, Detailed Billing

Roaming Rate: None
Additional Per Minute Rate: \$0.40 for plans \$50 and under; \$0.30 for plans over \$50.

Optional Features and Charges Available on All Plans:

Nights and Weekend Packages (not avail. On \$25 plan):	
4000 local minutes, nationwide calling, includes long distance:	
3000 regional minutes, includes nationwide long distance (available on regional plans):	\$4.95 (\$0.00123 per minute) \$4.95 (\$0.00165 per minute)
Mobile Messaging:	\$0.10 per message outgoing, unlimited incoming. Monthly plans also available.
Roadside Assistance:	\$2.95/mo
Mobile-to-Mobile Calling	\$14.95/mo (includes 3000 minutes from all phones to and from other US Cellular Customers \$9.95/mo (includes 1000 minutes from one number to and from other US Cellular customers. \$4.95/mo (on \$25. rate plan) \$4.95/mo (on \$25 rate plan) \$1.95/mo (on \$25 rate plan) \$1.25 per call \$4.95
Voice Mail:	
Caller ID:	
Detailed Billing:	
Directory Assistance:	
Voice Activated Services:	
International Dialing:	No monthly access fee - per minute charges apply
Automated Payment Service:	No charge
Phone Insurance:	\$3.95/mo

Fees Applicable to All Accounts:

Service Activation Fee:	\$30
Equipment Change Fee:	\$15

UNITED STATES CELLULAR CORP.

COMPLAINT REPORTING FORM

Number of Calls: 267			
Complaint Code	Number	Percentage	CTN
ES - Call Quality	1	0.37%	352-555-1111
ES - Can't Place/Receive Calls	3	1.12%	918-555-2222
			229-555-3333
			850-555-4444
ES - Dead Spots	1	0.37%	580-555-5555
ES - Equipment/Service Issues	3	1.12%	772-555-6666
			918-555-7777
			918-555-8888

NETCON	Can't connect to the network
CALPLA	Can't Place Call
CALREC	Can't Receive Call
CRSTLK	Cross-Talk
CALCUT	Cutting In/Out
DEAAIR	Dead Air
ECHTON	Digital Echo/Tones
DRPCAL	Dropped Call
FBDLAY	Fast Busy-Delayed
FBIMMD	Fast Busy-Immediate
FTRISS	Feature Issue
LL2MBL	Landline to Mobile Issue
NPSPCA	No/Poor Svc-Poorly Covered Area
NPSWCA	No/Poor Svc-Well Covered Area
MSGRCV	Not able to receive message
ONEWAD	One Way Audio
RMHMAR	Roaming in Home Area
STATIC	Static
TRNISS	Translation Issue
WKSNGL	Weak Signal

Attachment D

Attachment 1 to Comments of FW&A in CC Docket No. 96-45, FCC 04J-1
August 6, 2004



The Newsroom

Geographic Boundaries Determined for Tax Incentives Associated with "Former Indian Reservations in Oklahoma"

[Return to Oklahoma Page](#)

ATTACHMENT "B"

After extended work, the IRS and the Department of the Interior determined the specific Oklahoma geographic boundaries related to special federal tax incentives associated with "former Indian reservations in Oklahoma."

Background

The Revenue Reconciliation Act of 1993 provided for substantial tax incentives based on certain business activity within Indian reservations. Those incentives are an employment tax credit for employers of certain enrolled tribal members and their spouses who work within an Indian reservation, and an accelerated depreciation allowance for certain business property used within an Indian reservation.

Since Oklahoma has a large Indian population but does not currently have any Indian reservations, lawmakers wanted to insure those benefits would be available to those involved in business activity in Oklahoma by including in the legal definition of "Indian reservation" the term "former Indian reservations in Oklahoma."

The law, however, did not specifically define where in the state of Oklahoma the geographic boundaries of former Indian reservations lie. While the IRS was working on making such a determination, Congress wrote a 1997 amendment to the original law which defined "former Indian reservations in Oklahoma" as those lands within what is regarded as the then-current "jurisdictional areas" of Oklahoma Indian tribes. Further, the law required these jurisdictional areas be determined by the Secretary of the Interior (the Secretary).

The Determination

As stated in IRS Notice 98-45, (IRB 1998-35 August 31, 1998) the determination has been made that "former Indian reservations in Oklahoma" are those lands within the boundaries of the last treaties, Executive Orders, federal agreements, federal statutes, and Secretarial Orders with the Oklahoma Indian tribes.

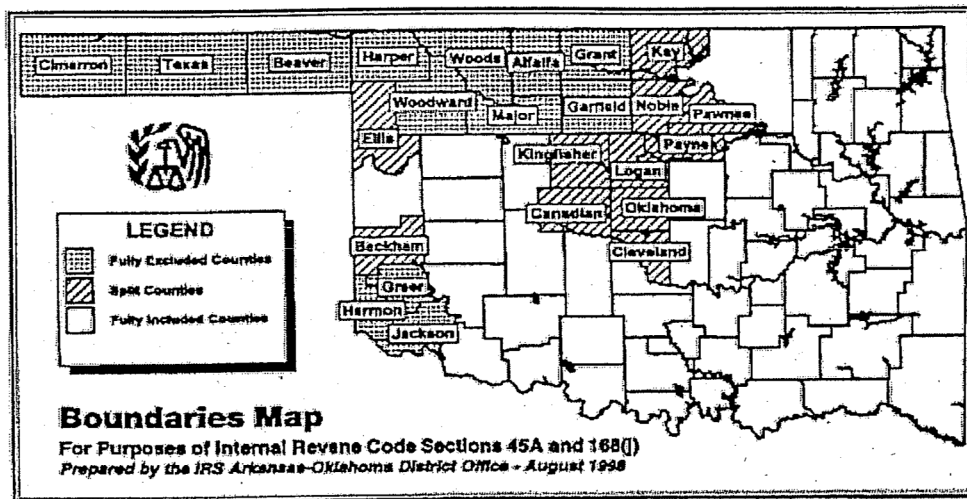
Geographic Descriptions

With that determination, IRS engineers in Oklahoma City reviewed the treaty boundaries provided by the Secretary and prepared a map of Oklahoma showing the counties which are fully within such boundaries (fully eligible counties), the counties fully outside of such boundaries (fully ineligible counties), and the counties where the treaty boundaries do not necessarily or completely match current county boundaries ("split" counties). Listed here are the 11 split and 13 ineligible counties:

- **Split Counties:** Beckham, Canadian, Cleveland, Ellis, Kay, Kingfisher, Logan, Noble, Oklahoma, Pawnee, Payne.
- **Fully Ineligible Counties:** Alfalfa, Beaver, Cimarron, Garfield, Grant, Greer, Harmon, Harper, Jackson, Major, Texas, Woods, Woodward.
- **Fully Eligible Counties:** All counties other than those listed above (53 in number).

<http://www.irs.gov/newsroom/article/0,,id=99491,00.html>

7/2/2004



Split County Descriptions

Here are descriptions of the boundaries in the split counties which identify their locations. In some cases, exact boundary line determinations do not follow existing roads or other landmarks. Taxpayers requiring exacting determinations in these situations may wish to obtain assistance from someone skilled in reading legal land descriptions, such as the county assessor of the county in question.

These descriptions identify *eligible* areas of the specific counties.

BECKHAM COUNTY: Everything north of the North Fork of the Red River.

CANADIAN COUNTY: Everything west of the 98th Parallel. (The 98th Parallel is an imaginary north-south line which, in central and south Canadian County, is located between Air Port Road and Reformatory Road. It is located just west of the western edge of El Reno Lake.

CLEVELAND COUNTY: Everything from the eastern county line to a north-south line which runs from the northern county line to the Canadian River, and is located 1/2 mile west of 132nd Avenue SE, which is also known as Indian Meridian Road. (U.S. Geological Survey maps show this line as the "Old Indian Treaty Boundary," which is halfway between 132nd Avenue SE and 120th Avenue SE, which is also known as Choctaw Road.)

ELLIS COUNTY: Everything south of the original boundary of the Cherokee Outlet. (This is about two miles north of Arnett. It is the line shown on the newest Oklahoma Department of Transportation County Road Map as "Old Indian Treaty Boundary." This line runs even with the southern edge of Woodward County and extends across Ellis County straight west to the Texas border.)

KAY COUNTY: (1) Everything east of the Arkansas River and Kaw Lake, and (2) Everything south of a line which begins at the western county boundary (156th Street) and Coleman Road and runs east along Coleman Road to Indian Meridian/"P" Street, then south along Indian Meridian/"P" Street to North Avenue, then east along North Avenue to the Arkansas River. (This area (area (2)) is also described as everything within 6 miles of the south county line (south of North Avenue, T25N R2W, T25N R1W, T25N R1E, T25NR2E), and everything in a 6 x 12 mile block from the west edge of the county to Tonkawa (bounded by Coleman Avenue, Indian Meridian/"P" Street, and North Avenue, T26N R2W, T26N R1W)).

KINGFISHER COUNTY: Everything south of the Cimarron River which is also west of the 98th Parallel. (The 98th Parallel is an imaginary north-south line which, in Kingfisher County, is located a little over one mile west of where U.S. Highway 81 passes through Okarche.)

LOGAN COUNTY: Everything east of the Indian Meridian, also known as Indian Meridian Road. (Indian Meridian Road is the section line road between Langston and Coyle.)

<http://www.irs.gov/newsroom/article/0,,id=99491,00.html>

7/2/2004

Attachment 1 to Comments of FW&A in CC Docket No. 96-45, FCC 04J-1
August 6, 2004

NOBLE COUNTY: Everything bounded by the county lines on the north and east, by the Indian Meridian on the west, and, on the south, by the east-west road about 3-1/2 miles south of where the Cimarron Turnpike crosses U.S. Highway 177. (Everything in T22&23N-R1&2E, T24N-R1 thru 4E, T25N-R3&4E) (The Indian Meridian in Noble County is a north-south line in alignment with the section line road two miles east of U.S. Highway 77.)

OKLAHOMA COUNTY: (1) Everything east of Indian Meridian Road, and (2) The 1/2 mile-wide strip of land bounded on the north by the North Canadian River just north of where it crosses 63rd Street in R1W, on the south by the southern county line, on the west by a north-south line in alignment with McDonald Road in Choctaw, and on the east by Indian Meridian Road.

PAWNEE COUNTY: Everything west of the eastern edge of R6E. The eastern edge of R6E in Pawnee County runs north-south from the Arkansas River to the southern county line. In northeastern Pawnee County, the eastern edge of R6E is in alignment with an unnamed north-south paved section road on the west side of the town of Blackburn. This road runs from the Arkansas River south to its junction with U.S. Highway 64, which is two miles west of Oklahoma Highway 99's junction with U.S. Highway 64. This unnamed road is unofficially known as "the Blackburn road."

PAYNE COUNTY: (1) Everything south of the Cimarron River, and (2) In the area north of the Cimarron River, everything east of a section line road located three miles west of the junction of Oklahoma Highway 18 with Oklahoma Highway 51 (five miles east of the junction of Oklahoma Highway 108 with Oklahoma Highway 51).
